

BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	PCB NO. 96-147
	)	
v.	)	
	)	
ILLINOIS CEMENT COMPANY,	)	
a joint venture,	)	
	)	
Respondent.	)	

Hearing commenced at 11:10 a.m. at the
LaSalle County Courthouse, Ottawa, Illinois, on
June 28th, 1996.

BEFORE:

JUNE EDVENSON, Hearing Officer,

APPEARANCES:

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Assistant Attorney General,
100 West Randolph Street, 11th Floor,
Chicago, Illinois, 60601
Counsel for the Complainant.

ATTORNEY SHELL J. BLEIWEISS,
of the firm of McDermott, Will & Emery,
227 West Monroe Street,
Chicago, Illinois, 60606
Counsel for the Respondent.

ATTORNEY ROBERT M. ESCHBACH,
728 Columbus Street,
Ottawa, Illinois, 61350
Counsel for SOLVE.

REPORTER:

Carrie L. Vaske,
Certified Shorthand Reporter,
Ashton, Illinois

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MS. EDVENSON: We can go on the record at this point. A settlement in this case was filed with the Board on December 29th, 1995. This is the case of People of the State of Illinois versus the Illinois Cement Company, PCB 96-147. This case is in the nature of an enforcement action related to mine water.

Good morning. My name is June Edvenson. I am the Board's Hearing Officer for this case. I will now request the Counsel for the two parties in the case introduce themselves for the record.

MS. SILVA: I'm Mary Rose Silva, Assistant Attorney General representing the People of the State of Illinois.

MR. BLEIWEISS: I'm Shell Bleiweiss with McDermott, Will and Emery representing Illinois Cement Company.

MS. EDVENSON: Thank you. And the cause for our hearing is a request of citizens in the community to hold a hearing

concerning the settlement which was filed with the Pollution Control Board in this case, and I believe that they have counsel. Counsel, would you please introduce yourself.

MR. ESCHBACH: My name is Robert Eschbach and I represent SOLVE.

MS. EDVENSON: And could you tell us what that stands for.

MR. ESCHBACH: SOLVE is Save Our Little Vermillion Environment and SOLVE is a not-for-profit corporation.

MS. EDVENSON: Thank you very much. Let the record show that we have a number of persons in attendance at the hearing. I imagine we have persons who are interested in testifying and also persons who are simply attending to hear the proceedings today. I have distributed a list -- a pad, rather, so that the persons in attendance may make a list of their presence here today should they wish to place their name on that

list. This list will be made a part of the record of the proceedings and will go to the members of the Pollution Control Board with the transcript of the proceedings that we are going to have today.

In anticipation of this hearing we prepared an order of hearing and we also had a filing of a list of persons who were interested in testifying today. The order of the hearing is as follows: Preliminary remarks will be made by the Hearing Officer. This will be followed by the introduction of persons who are present, and that will be followed by a statement of the nature of the settlement which will be presented by the Assistant Attorney General and Counsel for Illinois Cement Company, Mr. Bleiweiss.

Related questioning will then occur by citizens' counsel, Mr. Eschbach and that will be followed by -- I believe that will be followed by testimony of interested

citizens, unless the Company or the Attorney General have witnesses at this time that they will wish to present today. The testimony of interested citizens will be followed by the adjournment of the hearing.

With respect to the time, if it appears that we will need to go through lunch then I would prefer at some point to take a break, a break for lunch, and then come back in approximately an hour and proceed with the hearing to its conclusion. That concludes the remarks I will make at this point in time.

With respect to the introduction of persons, I think that we will go with the list that I have distributed for persons to put their name on, and then we have had the introduction of Counsel, so at this point in time I will ask for the Assistant Attorney General and Counsel for the Illinois Cement Company to present to the persons present the nature of the settlement that they have

come to in this case.

MS. SILVA: The stipulation and proposal for settlement basically covers the alleged violations in the complaint. The complaint has two counts. The first count involves the Respondent's discharge of storm water runoff from its facility without an NPDS permit, NPDS standing for National Pollutants Elimination Discharge System.

The count basically alleges violations of Section 12A and 12F of the Act as well as Section 403.12 of the regulation.

MS. EDVENSON: Miss Silva, could you come up here to the front? That would be helpful. Thank you.

MS. SILVA: With respect to Count II, Count II alleges that Respondent constructed its mine facility without the required Agency construction authorization, although the Respondent did obtain that construction authorization in 1993 which is -- which was put in as a condition in its NPDS permit.

The stipulation and proposal for settlement contains several terms among which include Respondent's agreement to pay a \$15,000 penalty, although the Respondent did deny the violations as alleged in the complaints of the People also contend that they had violated the allegations. Respondent did agree to maintain valid permits for its mining operations and equipments found on its facility, and they have agreed to cease and desist from further violations of the Act.

So that's what basically the stipulation covers. So when we did file the stipulation the citizens did write a letter requesting this hearing, and I guess we would seek to have the citizens have their say as far as what they are concerned with as far as the stipulation.

MS. EDVENSON: Thank you, Miss Silva.
Mr. Bleiweiss, do you have some remarks?

MR. BLEIWEISS: That sounded like an

accurate summary, and we have nothing to add.

MS. EDVENSON: All right. Thank you very much. Will the Attorney General or the Company be presenting testimony of any witnesses today?

MS. SILVA: No.

MR. BLEIWEISS: No.

MS. EDVENSON: All right, then we'll proceed with the testimony of the interested citizens that are here, and Mr. Eschbach, do you have a method by which you wish to proceed?

MR. ESCHBACH: If I may, I'd like to just make a couple of introductory comments, and we could proceed down the list that you have in front of you and that has been submitted. I would only indicate that there are a few people who aren't here or may be coming who only have a short period of time, perhaps a lunch hour or whatnot, and if those people would let me know, at the

appropriate point I would ask that they be allowed to speak so long as the other people on the list have no objection, and I don't think they do.

Just as a prefatory comment I would indicate, as I said, I represent SOLVE, Save Our little Vermillion Environment, an Illinois Not-For-Profit Corporation. SOLVE has been acting as a guardian of sorts of the Little Vermillion River here in LaSalle County for many years. It was SOLVE members who first directed aerial photographs to the Environmental Protection Agency in Rockford that made the Agency aware of violations that are at issue today.

I have -- I don't know if all of the people in this room are SOLVE members, and I do not represent them if they are not. I would state though that I have met with many of the SOLVE members to discuss with them today's hearing and the subject

matter of today's hearing, and many of the members individually in SOLVE as an organization have been involved with proceedings with Illinois EPA and other State agencies for many years, and I've tried to make our membership aware that the issue today has to do with the proposed settlement as outlined by our representative from the Attorney General's office here.

I would note, and I think it's important to direct comments to the criteria that the Pollution Control Board is supposed to consider in determining the reasonableness and fairness of the proposed settlement agreement. It's basically the position of SOLVE that the proposed settlement, particularly in terms of the penalty, is not sufficient in light of the degree of severity of the violations.

I note that the Environmental Protection Act indicates that in making its orders and determinations the Board is to

consider -- and I refer to Page 11 of the violation which quotes Section 33C of the Act, the Board is to consider the character and degree of injury to or interference with protection of the health, general welfare and physical property of the people, and the stipulation sets forth that the impact in this particular case is the lack of information the State had because permits were not obtained and therefore the admissions that were going to Little Vermillion River were not reported.

MS. EDVENSON: Excuse me. The reference is to Section 33C of the Act at 415 ILCS 5/33C.

MR. ESCHBACH: That's correct. And I think the testimony of the members of the public today will tend to show that we feel that there was more at stake and more injury to the State of Illinois than just lack of information, and that involves the actual discharge that is the subject of the

contaminants into the river.

I would also note that the Act at Section 42H, again, 415 ILCS 5/42H, indicates that in determining civil penalties which is the crux of the issue here the Board is authorized to consider any matters of record in litigation or aggravation of penalty, including but not limited to the following factors: No. 1, the duration and gravity of the violation, and I think the testimony will show that the duration has gone on for many, many, many years beyond the seven years discussed in the stipulation.

No. 2, the presence or absence of due diligence on the part of the violator in attempting to comply with requirements of this act, and again, I think the time frame is relevant here.

No. 3, the economic benefits accrued by the violator because of delay in compliance with the requirements, and again,

I think the delay and the economic benefits here are not just a matter of paperwork and not just a matter of information. Obviously there can be a benefit in not having to do paperwork to get the permits, but also because the permits were not obtained siltation ponds and other devices to control storm water runoff were not erected at considerable savings to the Company.

The fourth item is the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with the Act by the violator and other persons similarly situated subject to the Act. Again, I think the -- excuse me. In this case I think the penalty has to be relevant and it has to have some connection to the size of operation and the abilities of the violating party to pay, and I think one of the items that will be discussed by many of the witnesses here is how \$15,000 in

the case of Illinois Cement Company is insufficient.

And finally, the number, proximity and time of gravity of previously adjudicated violations of this Act, and in that case I trust that the stipulation did set forth the complete history of adjudicated violations.

I believe that concludes my comments, and if anybody does have a problem with time at that point -- at the appropriate point I'll raise that to the attention of the Hearing Officer and we'll try to accommodate people as best we can. Thank you.

MS. EDVENSON: Thank you very much. At this point would you like to proceed with the testimony of the individuals who wish to speak today? I believe we're ready to do that. All right. Then I will call in the order in which they were -- in which the list of individuals were presented to us.

The first individual name is Nancy, and I'm unsure how I might pronounce your last name.

MRS. JASIEK: Jasiek.

MS. EDVENSON: Jasiek. Miss Jasiek is the president of SOLVE. Miss Jasiek, could you come up to the seat here in the front of the room, and you are welcome to either sit or stand.

MRS. JASIEK: Probably just as easy to stand and maybe they can hear me better. According to this complaint filed by the office of the Attorney General it requires the Respondent to pay a civil penalty of \$50,000 for each violation of the Act and an additional penalty of \$10,000 per day for each day the violation is continued.

No. 5, ordering the Respondent to pay into the Environmental Protection Fund all costs, including attorneys, witnesses and consultant fees expended by the State in its pursuit of this action, and 6, granting

such other relief as the Board deems appropriate and just.

This penalty according to our calculations if we go back approximately 17 years that we feel the Agency has been in existence and this permit should have been issued would be in excess of \$50 million. As taxpayers we have footed the bill, and all you are reclaiming is a pittance, \$15,000. This could hardly cover the legal fees for public hearings such as this. It is inconceivable that you would expect us to believe that this is a significant deterrent since we have records to prove that Illinois Cement has exceeded their fecal coliform limits in February 1996 and perhaps even to this day.

In 1993 Illinois Cement presented a compliance schedule to the IEPA. This was at the time that they were issued their permit or they were applying for their permit, the NPDS permit. This compliance

schedule promises to construct a laboratory waste pretreatment system within four months of the permit, and that's a quote. This system, if it ever was installed, did not work. They are showing us photos of a new wastewater treatment system in 1996, three years later.

How long can you allow violations to go on without intervention? We must address the problems associated with outfall 001. This is the original permit from 1986, and we still have problems with it. Why was Count I dropped from the complaint? When monthly records for the last ten years show frequent consistent violations at outfall 001 we can presume that contaminated water has been pouring into the Little Vermillion River as long as Illinois Cement has been in existence.

At SOLVE's meetings with Mary Rose Silva and Rob Lehmann (phonetic) they indicated that this significant violation

could perhaps be reinstated. The IEPA and Attorney General are responsible for the public health and safety which has been jeopardized by allowing Illinois Cement to flagrantly violate your laws. Our rivers and city wells cannot be restored with \$15,000.

Illinois Cement is a wealthy, profitable group of corporations. They have saved millions of dollars by not complying with the NPDS demands. We were naive enough to believe Mary Gady (phonetic) when they issued this IEPA news release, and I have a copy here which I would like to leave with you, in which -- dated April 28th, 1993 the title is Sand and Gravel Firms Charged with Permit Violations, and it's Springfield, Illinois, and I will just quote one or two lines out of it where it states the IEPA has asked the office of the Illinois Attorney General to bring legal action against the firms to compel them to obtain required air

or water pollution permits and to pay fines that would offset estimated financial benefits they have made by operating without permits.

Further down Miss Gady states without -- and this is a direct quote, "Without adequate environmental safeguards these activities can pose significant threats to both the environment and the general public, said IEPA Director Mary A. Gady. Potential hazards include water pollution, destruction of fish and wildlife habitats, increases in flooding or soil erosion, air pollution and damage to private property."

We have been told that 15,000 is a significant amount of money, but I would like to present some additional examples of fines that would be at least a deterrent. How about nine duck hunters who were fined more than \$10,000 for killing three ducks or ESK Company in Hennepin who was fined \$1.3

million for air emission violations, and I have copies of those news items in this pile that I'm going to submit for you today.

MS. EDVENSON: Miss Jasiek, could I have the news release that you quoted from if you're finished with it.

MRS. JASIEK: I think I'm finished with all that.

MS. EDVENSON: And would you like to present all of these documents as part of the record?

MRS. JASIEK: Yes, uh-huh.

MS. EDVENSON: We have a news release from IEPA dated April 28th, 1993, and we have the submission of several articles, news articles and announcements.

MRS. JASIEK: And that's a copy of the laboratory tests from Illinois Cement's self-testing as of February 1996 which show violations in fecal coliform as of February.

MS. EDVENSON: All right. I believe what I would like to do here with respect to

these potential exhibits is give the parties an opportunity to look at them and then reserve a number for them, and then we will number the exhibits in the order in which they are presented here today. And I believe I will classify the news articles together, and they will be Exhibit 1, news articles, and Exhibit 2 will be the discharge monitoring report of Illinois Cement Company.

Miss Jasiek, would you hand these to Counsel, and then feel free to proceed with your remarks.

MRS. JASIEK: We show OSHA fines in excess of \$690,000 to ADM. We show dental offices with huge OSHA fines. In April ArtCo (phonetic) was find 200,000 for discharging contaminants and oil billet water into the Illinois River, but at least in that settlement we can see some benefit being brought back to our area.

If it has been the policy to issue

such small fines, it is time to change. Illinois Cement flagrantly abused its NPDS permit and failed to obtain permit. It has proven on many occasions to be deceptive, untrustworthy and self-serving. Politics must be put aside and industries that are reaping huge profits must be made accountable. As a private citizen I resent the fact that I have to do the job of the IEPA to be a watchdog as well as providing tax dollars to cleanup and enforce the problems.

At least two zeros should be added to this penalty, and the fecal coliform violations must be enforced with a similar action. We look to the Pollution Control Board for satisfaction by reconsidering this case and the ridiculous settlement. We must give the IEPA some teeth if it is going to do its job. Thank you.

MS. EDVENSON: Thank you, Miss Jasiek. Our next citizen listed here is Ellen

Knaff. Miss Knaff, please feel free to either sit or stand.

MS. KNAFF: I think I'll stand. The air conditioner makes it very hard back there to hear. Can you hear me? I'm Ellen Knaff and I own the northeast quarter of Section 11, Nick Township 33 which was deeded to my greatgrandfather in 1892, and I have had trouble with this firm on a small piece of roadway that was issued from my grandfather and his wife that was to be a roadway along the south 37 1/2 links wide to be used as a roadway free from damages or obstructions of any kind.

In 1986 the quarry tore up this land and I did not get use of it again, nor did they except with big machinery until 1992. All of this problem was with slumping on that road which I hired a Dr. Robert Morris in 1988 in May, and he alleged that in two to three years it would wash away, my farm would be damaged and so would their --

part of their section on the other side of the fence.

I testified to this at an Illinois Department of Mining and Minerals, October 27th of 1994, and at that time I predicted that I would have trouble on the west side of my farm and I have. All of this was storm water that went into the Little Vermillion River or they also on their side had a large slide. A lot of that was washed into the Little Vermillion River, and if you look now at the bridge coming across Route 6 to the north where those trees and all that things, that's what's growing on what used to be some of their slump way. And at various times they have asked to trade for me so they would not have to fix their mistakes, but the Departments of Mines and Minerals, I met with them on 5 the 5th of '93 and the 6th the 16th of '93, and at that time they promised to do something and make this little plan to hold it back with

rocks. If I had a cement company I could hold it back with concrete. You put a little water in it.

Then this also was an expenditure by State department for which we pay to do something and they didn't do it. On October the 27th we had that public meeting, and that was an expenditure. At almost all of these meetings there's been two to three people there. We've met with Bruce Yardenstandler (phonetic), talked to Mary Gady, and this permit that was issued in 1995, we talked to the Illinois Environmental Protection Agency who promised at the end of the meeting that they would do something about the water that wasn't the right runoff and my slump, but then that was taken care of with the permit so now we can slump away.

We've had two meetings since then with people that said they were going to take care of it. Then March we met with the

State's Attorney's office who said they were going to take care of it. All of this has not been taken care of, and it makes an additional expenditure for each of these things.

And if they're benefiting from making the rock out of this quarry with no permits and damaging me, and I have spent over \$2,000 for a lawyer and for Dr. Morris to tell me what happened and they were written a letter and that was in their letter in 1989, so this isn't a surprise at all, and it shouldn't be a surprise to your committee or anyone that the ones who have to fix this, I fit in that class. The ones who have been damaged, I am in that class.

And the fact that I am a woman has been another thing. I inherited in '82. We had no trouble before then because I ran my uncle's operation before then when he was in the nursing home, but immediately afterwards when anyone was called -- it says Ellen

Knaff on the deed. They will call for my husband even if I answer the phone, and that's discrimination. This has been in my family for over 100 years, and I feel that not only are these men not being very honest but they're rude, and that is all I have to say.

MS. EDVENSON: Thank you, Miss Knaff. The next person on our list is Robert Wallock.

MEMBER OF THE PUBLIC: He's not here. He wasn't able to come.

MS. EDVENSON: And then the next individual listed here is Henrietta Wallock. Miss Wallock, am I pronouncing your name correctly?

MS. WALLOCK: Wallock. Can I read a letter from my son who is working?

MS. EDVENSON: Please do.

MS. WALLOCK: Members of the Pollution Control Board, these are a few of my concerns. The EPA saying it is their job to

issue permits and not to deny them; closer watch needs to be taken in issuing permits by the Agency; to give the permit more meaning and to keep applicants more accountable for the permit regulations.

I would like the Pollution Control Board to be aware of the construction of the bluff area on the west side of the Vermillion River. That was to be left intact.

To be aware of the runoff of red clay from the quarry during a rain which can be seen where the Route 6 bridge crosses over the Little Vermillion; to be aware of the resultant sediment that is in the Little Vermillion as well as the Illinois River.

I feel that a \$15,000 fine for a corporation will not be enough deterrent for them to keep them from future violations considering the economy's benefits and duration of the violations. Illinois Cement should be ordered to pay into the

Environmental Protection Trust Fund all the fees expended by the State for this action. Thank you, Bill Wallock.

Can this be submitted?

MS. EDVENSON: Yes. Thank you, Miss Wallock. Would you like to add your own additional comments?

MS. WALLOCK: Well, I agree with the letter 100 percent after having talked with Bill about it, gone over the problems that we've had. Thank you.

MS. EDVENSON: Okay. Thank you very much. Next individual on our list is Miss Betty Kasap.

MEMBER OF THE PUBLIC: She's not here.

MS. EDVENSON: All right. If these individuals arrive later then we will be glad to entertain their oral testimony.

The next individual on the list is Charlotte Moriarty.

MS. MORIARTY: I'm not very well prepared for this. I thought I was going to

work today but there was just a couple of comments I had. If I could ask the question about whose responsibility -- this was not -- this meeting was not published in our newspaper, and other open hearings that we've been to have been, and I wonder whose responsibility that is. This is an example of the public notice for our last hearing from the Department of Mines and Minerals, and there was absolutely nothing in the paper about this meeting at all.

MS. EDVENSON: Okay. Let's pause just a minute, Miss Moriarty, and I will provide you with some information on that. The notice of the settlement was published in the News Tribune of LaSalle, Illinois.

MS. MORIARTY: Yes, that's where we saw that.

MS. EDVENSON: I don't have the information handy on the notice of this hearing today, so I'm sorry.

MS. MORIARTY: Because if no one's

ultimately responsible then we would know next time. I'd be willing to pay for that notification because I know there's a lot more people that are interested in this, and we thought it was going to be in the paper, and I know there would have been a bigger turnout today.

MS. EDVENSON: You can confirm the notice of the hearing with the Clerk of the Board, Dorothy Gunn (phonetic), and I can give you her phone number later.

MS. MORIARTY: I'd appreciate it.

MS. EDVENSON: We can speak after the hearing.

MS. MORIARTY: I'd appreciate it. My concerns have mainly been with the water issues, the contamination and siltation, also the close proximity of the new area of mining to old landfills in the contaminated M & H area. With this new area stripped and not properly protected from runoff into the Little Vermillion, the runoff from these

areas could also be included in the contamination as a nuisance.

The public water safety is just a great concern to me. The Little Vermillion is also a recharged source for our city wells, and I have here, there's been ongoing problems with our water in the city, and I just brought the latest notice.

"The City of LaSalle public water supply failed to submit required number of samples or sample results of treated water for nitrate and nitrite analysis during December of '95. This is a violation of the Illinois Pollution Control Board Rules and Regulations. United States Environmental Protection Agency sets drinking water standards and as has determined that nitrates and nitrites poses an acute health concern at certain levels of exposure. Failure to monitor these --" I won't go through this whole article but I do feel because the Little Vermillion is a source of

our city wells that all these things are interconnected and I just find it extremely important that the Company be kept in compliance with their runoff into what goes into our city wells.

And I just have one other little comment about the fine. When one of my children broke a window they had to pay for damages in full, serve community service and had a period of probation. I was all for that punishment as a deterrent for further problems, and it served the purpose very well.

I don't know who decided this won't work for big companies. This minimal fine proposed here is absolutely not a deterrent for a large corporation. Where is the probation period until this Company is in compliance? This fine should be adequate to also serve as community service and the fine used for reclamation and restoration of the Little Vermillion River.

MS. EDVENSON: Ms. Moriarty, would you like to leave the notice as a demonstration?

MS. MORIARTY: Sure, and maybe this just as a reminder. I put on there this is an example.

MS. EDVENSON: All right. These photocopies of the public notice will be Exhibit No. 4. The next individual on our list is Franklin Jasiek.

MR. ESCHBACH: Madam Hearing Officer, we had one of our speakers just arrive who is on a time constraint, that's John LaVieri, and if he could speak now we'd appreciate that.

MS. EDVENSON: All right, and sir, could you state your name.

MR. LaVIERI: Dr. John LaVieri, L-a-V-i-e-r-i, LaSalle.

I'm going to deal with the narrow aspects of the amount of fine that was levied. I feel if it was to be a deterrent

and to cover the expenses that they have saved by not having the NPDS permits and the drainage protection in place that the fine should be commensurate with covering the EPA and Attorney General's office costs -- I'm assuming they can't cover the Pollution Control Board's cost -- remediation of the damage, the siltation into the Little Vermillion. The Army Corps of Engineers spends a lot of time dredging up and down the Little Vermillion River, and it appears that the fine has not been a deterrent because they were there burning trees and other nonvegetation refuse within a couple days of the apparent agreement.

Other fines such as the ADM fines, Archer Daniels Midland, for washing out their barge in the Illinois River were much higher than this, and many other fines where harm was much less and the fines were much higher.

The biggest thing I think is the

money they have saved for not having this in place for 17 years. I realize the statute of limitations of legal only goes back to 10 years, but if they were fined to the full extent it comes to around \$125 million over 17 years or about \$55 million over 10 years which is approximations, and so I feel that the fine they had wasn't even a slap on the wrist and has not been a deterrent, and that's my main point today.

I assume I have 30 days for written comment after the hearing.

MS. EDVENSON: We'll be discussing the timeline for written comments at the conclusion of the hearing, and that will be made public.

MR. LaVIERI: Thank you.

MS. EDVENSON: Thank you very much.

MR. JASIEK: My name is Dr. Franklin Jasiek. My comments will revolve around a meeting that was held in January 1996. That meeting was held with the associate director

of the Illinois EPA as well as the head of the water division of the Illinois EPA. It was the result of no public hearing being allowed prior to the time that the NPDS modification was allowed in December 1995 for the latest expansion.

We should not lose fact -- lose sight of the fact that the violations did occur for the entire 17 year duration prior to 1993. The man who is head of the water division actually has been head of that division for 18 years. That night in direct confrontation discussion he said the violations did occur for all 17 years prior to 1993.

If, in fact, we as citizens are paying for cleanup for dredging of the rivers, for the operation of the agencies of the State of Illinois to be able to protect the environment I think we can expect a lot more than what we've seen to this date. I know on a subsequent meeting it was said

that the Agency is there to issue permits, not to place a regularity. When I look at the complaint that was drafted by the Attorney General's office it says that they actually had the responsibility to enforce and abate violations, not to issue permits. Nowhere did I see this in the complaint from the Attorney General's office as a function of the Illinois EPA.

If we look at the cost of dredging the Illinois River, and basically we're looking at the result of a lot of sedimentation -- lack of sedimentation control that existed during those years, in my lifetime I can remember dredging three times over that 17- year to 20-year period of time. We don't see dredging occurring upstream from the Little Vermillion River. We see it downstream. Now, we have to be realistic and know that all sedimentation that occurs in the Illinois River and the Little Vermillion is not a result of mining

operations. Obviously a lot of it comes from farming and other reasons that are occurring upstream, but as the Illinois EPA has indicated there's a very indicative high sulfide red clay that's associated with mining, not with farming, not with logging but with cement mining, with limestone mining.

If we, in fact, look at the aerial photographs of the mouth of the Little Vermillion River we see a total change in that 17-year period of time and the course of the Little Vermillion entering into the river. The amount of sediment coming in is forcing the river to go more and more east, more and more upstream. You can walk out into the Illinois River hundreds of feet and be knee deep by the amount of sediments there, and by the Illinois EPA's own admission. They have walked it. They know the shallowness of it. And also if you look at it you're really looking at high sulfide

red clay color primarily. Not solely, but primarily.

I think there's enough evidence to show that not having the required permits over such a long period of time has cost the taxpayers of Illinois millions of dollars in sediment removal in trying to keep the shipping channels open for the grain and the coal and oil and everything else that's transported on the Illinois River.

Is it the citizens' responsibility to be able to go ahead and do that? Obviously that seems to be the attitude because nothing is done. Nothing was done for all those years by the agencies in trying to enforce and abate the sections of the law that are written, that are existing on the books in the State of Illinois.

Hopefully we can start to see some change in attitude to be able to correct some of the deficiencies that did exist. As far as being a deterrent for future

violations, I know Dr. LaVieri also already referred to it, but within hours, within 24 hours from the time that the latest modification was issued, December 29th, 1995, there were more violations already occurring.

Now, I know that when it was brought to the Illinois EPA's attention they said that the field person did not observe any of the violations. We did, in fact, provide some photographs that showed the violations that were alleged after December 29th, and when they were presented to the field person the remark was made that in the morning, as is customary, I get out of my house, I scan the sky for black smoke and if I don't see it, I presume there's no open burning.

An analogy I would give is if a dentist arrived at his dental office and walked through the waiting room, passed the people sitting in the chairs, walked back

and said, there's no decay present, I didn't see any, that would be commensurate with the analogy I gave. I feel like it is woefully inadequate as far as a way to be able to have a person who's hired by the State of Illinois to be able to fulfill his role as air quality control person for the area.

There are other -- there is other evidence already existing showing sediments going into the Little Vermillion since that December date as well. I'm not going to belabor those points right now, but I will close with a statement from an attorney in regard to another matter. He said something to the effect, it's a sad commentary when it takes a citizen taxpayer's court action to enable State agencies to be able to carry out the purpose for which they were created. Thank you.

MS. EDVENSON: Thank you, Mr. Jasiek. The next individual on our list of interested citizens is William Stoetzel.

MEMBER OF THE PUBLIC: He wasn't able to come. He's ill today.

MS. EDVENSON: And the next individual on our list is Lisa Lau, L-a-u. Is there a Lisa here?

MR. ESCHBACH: She doesn't appear to be here.

MS. EDVENSON: The next individual on our list is Marjorie Gapinski.

MS. GAPINSKI: I'm going to stand right here.

MS. EDVENSON: That's fine.

MS. GAPINSKI: Before I start my written remarks I would like to make a few comments, and I will start with you representing the Pollution Control Board. I feel as though we've had several statements made about who you're representing, and I'd like you to know that I think you're representing the citizens of the State of Illinois. I don't feel you should be the party to be white-washing any violations or

trying to cover up any violations or giving this Company a small fine. You are representing us, and the same goes for the EPA, and the same goes for the Attorney General. You're being paid by the State of Illinois, and that is the citizens of the State of Illinois, and I don't feel that you should say your job is to issue permits. I think your job is to protect the environment, to protect the citizens from pollution and to protect our laws of the State of Illinois. Now that's just some extra comments I wanted to make.

First of all you should know that I was outraged at the fine of \$15,000 for all the damage that Illinois Cement Company has done to the Little Vermillion River and the people of the City of LaSalle and LaSalle Township. You should also know that we have been trying to stop this desecration of our Little River ever since it started in 1991. You should also know that the mayor

of the City of LaSalle has been playing footsy with this Company for 30 years as an alderman, tax assessor, township supervisor and now mayor. He has appointed all the members of the planning and zoning boards and they all vote the way he wants them to.

We had close to 800 signatures on petitions against mining on the west side of the Little Vermillion. They, the Planning and Zoning Board and all alderman except one alderwoman, disregarded all of them. The mayor has all the alderman except for the one lady in his back pocket. That is how the cement company got the okay to have this property rezoned.

The people of LaSalle and LaSalle Township were against any more raping of our land by a cement quarry. You also need to know that this Company has accused Save Our Little Vermillion Environment of attempting to discredit the Company by half truths and innuendos while in reality it is the

Illinois Cement Company that has tried to do this to SOLVE.

To substantiate this I have as my first exhibit a letter by Illinois Cement Company to the mayor in which they accuse us and then tell many lies to him, such as, under Issue 2, that the Attorney General's office informed them that they have dropped this case. Included in the Exhibit No. 1 is a substantiating letter from M. Elizabeth Duffy, Assistant Attorney General, that they indeed did not drop the case nor do they have any plans to do so.

Another lie is in Issue 5 where they failed to tell the complaint of a lot more than some large rocks along a short portion of the Little Vermillion, such as mining without a permit for 17 years.

I have also included in Exhibit No. 1 a letter from Edward W. Kleppinger (phonetic) of the EWK Consultants, Incorporated, disputing their statements in

Issue 1. Exhibit No. 1 should prove to you what kind of a company you have allowed to ruin our area, but I will continue to prove why I was so outraged at a mere \$15,000 fine and giving them a permit to mine, and this is my Exhibit No. 1.

In 1991 the stories started pouring in about how Illinois Cement was damaging the Little Vermillion River. Fishermen were telling about huge oaks, maple, ash being pushed into the river. They were burning all these beautiful trees and pushing them into the river along with dirt and other debris. This is when SOLVE and others interested in the area got organized. The Company skinned that area right down to the river. That is when the siltation of the Little Vermillion River began.

My Exhibit No. 2 is various pictures taken establishing the damage to the river. The first page of Exhibit No. 2

is three pictures showing the siltation. Right in here, this is to the north of the Fifth Street bridge and this is to the south. All of this here is siltation that has been caused by the Illinois Cement Company, and you can see right here, right in this area you can step across the Little Vermillion River now. This is to the north. This is to the south.

This was the original channel of the river here and that's all been put in there by Illinois Cement since they started their digging and damaging the river and I have another picture -- oh, no, that one goes with the other one.

MS. EDVENSON: The original page of photographs, the top photograph is from the north, the bottom photograph is from the south and the land to the right -- how did you describe that?

MS. GAPINSKI: That is siltation from the dirt that keeps going into the Little

Vermillion. This is to the south and this is -- no, that's to the north and this is to the south.

MS. EDVENSON: All right, thank you.

MS. GAPINSKI: Uh-huh. And my other pictures, I just happened to take this -- these pictures on a dark, dreary, rainy day, and the reason that I was there at that time, I had talked to a Department of Conservation officer, a Mr. Ritter, and told him about what was going on in the Little Vermillion and told him about all this brown, red water that kept flowing down there, and he told me that he would like to see that, I should call him.

I called him in the fall of 1992 and he was in Princeton, and he told me that he would come and see this brown water. Well, I waited and I waited and he didn't come so I took my pictures and I left. He didn't show up, but these pictures will show you.

This is 1992. You can see the distance here between this right here and this right here. That's four years you can see. Now you can step across there. This also shows the murky waters. Like I say, it was a dark, dingy day. It was hard to get a good, clear picture, but even on that kind of a day you can see the mud going in here. You can see the mud over here. You can see the mud in the water there. That's part of Exhibit No. 2.

MS. EDVENSON: Let the record show that Miss Gapinski is comparing the two sets of photographs that were taken over the course of a space of time.

MS. GAPINSKI: Now, I also have another set of photographs, and these were taken right after this damage started, probably in 1992, and this shows right here the area where they were pushing the dirt and the trees down in here, and this is another shot of it right here, and this was taken

recently, 6/25/96. You can see that it's still there. There's been no remediation to any of it, and those are my photographs. That is my Exhibit No. 2.

This is when the siltation of the Little Vermillion began. My Exhibit No. 2 is various pictures taken establishing the damage to the river. The first page of Exhibit No. 2 is three pictures showing the siltation which has changed the way the river flows. In picture No. 1 you can see that it is possible now to step across the river.

The next page of Exhibit No. 2 is six pictures taken in the fall of 1992 while waiting for Officer Ritter of the Department of Conservation to look at the brown, red water coming from the damage by Illinois Cement. He never showed up. It was a dark, rainy afternoon about 4 p.m. They were all taken from the north side of the Fifth Street bridge. The water was very red,

brown, and even though it is dark you can see the murky waters.

There is another area at the mouth of the Little Vermillion where this flows into the Illinois where siltation has caused the course of river to be changed. We couldn't get pictures of that because the water has been too high.

The last page of Exhibit No. 2 is two pictures showing how they came right down to the river even though the Department of Conservation recommended at least 200 to 300 feet setback from the 100-year floodplain. This company is no friend to the environment like they profess to be. In my opinion Illinois Cement should either remove all the siltation they have caused in the river or pay the State of Illinois to dredge it, to restore it to its original condition. They should be made to stay behind the 200 foot setback from the 100-year floodplain.

In the January 2nd, 1996 letter from the Attorney General's office on Page 6 it talks of a \$50,000 penalty and an additional penalty of \$10,000 per day. Why weren't they made to pay that penalty instead of a measly \$15,000? That penalty is a sin compared to other penalties companies have had to pay in this area.

On Page 7 of that same letter it says no person shall cause, threaten or allow the discharge of any contaminant into the waters of the State as defined herein, including, not limited to, water, to any sewage works or into any well or from any point source within the State and so forth.

On Page 8, No. 18 it says the Agency reissued an NPDS permit allowing for the discharge of treated domesticated water and storm runoff. On Page 9 it talks about a penalty of \$10,000 for each violation and an additional \$10,000 per day for each violation of Section 12F of the Act. We

have records to show that as late as February 1996 they are still pouring untreated waste from toilets and so forth right into the Little Vermillion River.

Are you aware that the City of LaSalle's water is not fit to drink since about 1993? Everyone buys bottled water to drink and cook with as their blasting and mining caused a hole in the aquifer. Did you know that the aquifer that LaSalle's water supply comes from is under the Little Vermillion? Don't you think that should be checked out before you issue them a permit?

Exhibit No. 3 is a copy of three maps, one from 1906 LaSalle County atlas and two from the 1876 LaSalle County atlas which shows where five coal mine shafts are in very close proximity to Illinois Cement's blasting and mining. I have also included a copy from a genealogy news letter which talks about a creek in Streator that broke into a mine and flooded it. Do you know

that they have not broken through to the aquifer? Don't you think that should be investigated? Ordinary citizens are not privy to that kind of information but your agencies are.

They are keeping all the results of an engineering study that we citizens have been paying for very quiet. Can you find out what this engineering company has found? There has never been a report made but we do know that they are not treating their wastewater. It is going into the Little Vermillion. If they have ruined our water they should be made to pay for correcting it and it should be done immediately, not a measly \$15,000 fine. That is a drop in the bucket to all the money they have made raping our beautiful Little River. And this is my Exhibit No. 3 that shows you where the mine shafts are, close proximity to their mining.

My Exhibit No. 4 is copies of

pictures which are in the LaSalle City Library. The pictures show you that this Little River has been a favorite spot for recreation since the first settlers came here in the 1830s. The Little Vermillion River is the best spot in the State of Illinois for small mouth bass. Did you know that? Any time they report about fish in the river they very conveniently forget to mention that fact.

No one can enjoy recreation along the Little Vermillion with their blasting, no trespassing signs and fences. Even adjoining property owners can't enjoy the pleasure of the river when you never know when they are going to blast. Their blasting is so strong it is damaging homes in the city, knocking pictures off the walls, dishes out of cupboards.

How dare you subject law-abiding citizens to this kind of living. You never should have given them a permit to do this

so close to a city. Don't you believe them when they say they are not -- they are within the parameters of the requirements for blasting. They are not. And these are my exhibits of pictures showing the recreation area that we have enjoyed until they started their blasting.

My last Exhibit No. 5 is a sample of the mud that is going into the Little Vermillion. It was given to me by a property owner on the river. Take a look at that. That's what's going into the river. That's what's causing all the siltation right there. I hope you can see why I was outraged at the measly penalty they were given. I was even more outraged that you have given them no remedial action to take. Who did you all say you were supposed to be representing? It sure looks to me like you have allowed Illinois Cement to break the law for years and made no attempt to make them repair the damage they have done.

Illinois Cement should be made to remove all the siltation they have put into the Little Vermillion, remove all the trees they have pushed into the Little Vermillion, pay for the damage to the LaSalle water supply and correct it. The Department of Conservation has said they should stay away from the banks of the river 200 to 300 feet. They should be made to do that. That is State waters. They have no right to contaminate it the way they have. And that's a copy of my remarks.

MS. EDVENSON: Thank you, Miss Gapinski. Before we proceed, I'm going to sort the exhibits that Miss Gapinski has given me and then I will identify the numbers that will be assigned to those.

Miss Gapinski, how would you identify the location from which the soil was taken?

MS. GAPINSKI: Pardon me?

MS. EDVENSON: How would you identify

the location from which the soil was taken?

MS. GAPINSKI: I'm not sure exactly where it was taken, but it was a property owner along the river that collected that for me.

MS. EDVENSON: Miss Gapinski identified five general categories of exhibits, and at that point in our proceeding we were up to Exhibit No. 5, so these exhibit will be numbered 5-1, 5-2 and the second number will be the number that Miss Gapinski used in her statement, so 5-1A will be letters, 5-1B is news articles, 5-2A is 1996 photographs, 5-2B is 1992 photographs, No. 4 through 9. 5-2C is 1992 photographs, No. 10 and 11. 5-2D is one 1996 photograph. 5-3 is a map -- or rather maps of the area. 5-4 is historical photograph copies of the river, and 5-5 which is for the information of the Board and will not be retained in the record of the proceeding in the final analysis but will be available for the Board to see is

the collection of soil from the river bed.

Thank you very much. The next individual on our list of persons interested in speaking is Rebecca Ryba, so you're welcome to come up to the front at this time and sit or stand to make your remarks.

MS. RYBA: My name is Rebecca Ryba. I'm from Peru.

MS. EDVENSON: And Miss Ryba, could you speak up as much as possible, and also if you're going to be reading testimony be sure to go slowly enough so that our court reporter can transcribe your remarks.

MS. RYBA: Ponder the thought: 17 years of damage, construction, lies. \$15,000 is only a minuscule amount to correct these damages they have so ruthlessly created. \$15,000 is only pocket change to such a large company as Illinois Cement, and who is saying that this will stop them from doing it again? This upsets me greatly as a 14-year-old girl who wishes

to live life in a healthy, balanced environment, but how can I when Illinois Cement doesn't share my same dreams? I strongly believe this fine should be increased. Let us throw the political issues aside and focus on what is real important, the environment, period. It is that simple. Thank you.

MS. EDVENSON: Thank you very much, Miss Ryba.

MR. ESCHBACH: Madam Hearing Officer, another person has entered the room on a very tight schedule. That's Sharon Rosploch. If she could speak, please.

MS. EDVENSON: And would you please state your name and spell your last name for us.

MS. ROSPLOCH: Sharon Rosploch, R-o-s-p-l-o-c-h.

MS. EDVENSON: Okay, thank you, Miss Rosploch. Please proceed.

MS. ROSPLOCH: Point No. 1 that I would

like to make in regard to this proposed fine of \$15,000 for violation of the NPDS permit is by the Illinois Pollution Control Board's own stipulation and proposal for settlement, a \$50,000 fine for each act and a \$10,000 per day fine after that while the Company was still in violation was stated.

How then could a \$15,000 fine be settled upon? I have articles showing fines for different types of violations and costs of cleanups to companies, and I have articles for that. Do I just turn those to you? I'm not going to read each one of them.

MS. EDVENSON: Yes, you may give me those.

MS. ROSPLOCH: Those would all be one.

Secondly, Illinois Cement was part of a parent company and not new to the mining industry when they came to Illinois. They had to know the rules and the necessity for the permits that were needed. Why did

they not follow them? Illinois Cement certainly profited financially by not having to get the necessary permits.

The EPA in the news in its own letter said that all the companies should be allowed to pay fines that would offset the estimated financial benefits that have been made by mining and operating without the necessary permits. That would be No. 2.

No. 3, I have an article that is short from the September 1989 Daily News Tribune. "When We Had a Wet and a Wild Wednesday," is the title. What it said is, "Illinois Cement Company officially reported a rain induced avalanche at a quarry northwest of the intersection of US 6 and Interstate 39 at LaSalle. The face of an 800-foot long limestone cliff collapsed. In all, about 300,000 tons of limestone fell from the stone wall into the quarry, according to Virgil Sioni (phonetic), quarry superintendent. He said it would have taken

one and a half years to mine that much rock. 'We never, ever, ever had anything like that out here,' Sioni said. 'In the 11 years I've been here I've never seen it, and in the history of the company, well, I don't think it's ever happened.'" Now, without any environmental protection how much damage could you figure was done with a rain like that?

And my last point I'm making is that LaSalle wells recharge from the Little Vermillion River. With LaSalle's ongoing water problems and the discharge of fecal coliform into the Little Vermillion River, how safe is the LaSalle water for the public to drink? And I have two discharge monitoring reports, and that's all I have.

MS. EDVENSON: All right, thank you very much, Miss Rosploch. We will take just a brief pause while I sort the exhibits. All of Miss Rosploch's exhibits will be identified under the main number Exhibit 6.

Exhibit 6-1 will be entitled news articles.
Exhibit 6-2 will be rain storm news article,
and Exhibit 6-3 will be discharge monitoring
reports.

The next individual on our list of
persons interested in speaking today is
Heather Wise. Is Miss Wise here?

MEMBER OF THE PUBLIC: She's not
present today.

MS. EDVENSON: The next individual's
name is C. R. Jasiek. Please come forward.

MR. C. R. JASIEK: I'm Dr. Jasiek. I
have lived out there in the area of the
Little Vermillion for about 30 years now.
There have been many, many changes that have
occurred, and not for the better. I can
tell you the terrain has been destroyed.

A Mr. Vyerlene (phonetic), who has
written extensively on the Illinois Valley,
had cited this valley, the Little Vermillion
valley, as the most scenic spot in the north
central part of the State. One of the

consultants that Blau Karris (phonetic) had hired stood on the site that is currently being demolished on the west side of the river and said that was probably the most impressive site that he had ever seen in all of his travels through the north central part of the State. It is no longer there.

The recharge area -- it's going to be fragmented, and I'll get back to the Company itself and their attitudes. The recharge area according to the city engineer, Pam Broviak, is probably at least one mile and could possibly be as great as seven miles in diameter. The Little Vermillion does flow over that area. The main source of the water comes along Saint Peter Sandstone.

The river itself is not the primary source of water but it is the source of water for recharge, and I would hope that you, the attorney, would get in there and start looking up some of this information

because without it it's -- a lot of the discussion is meaningless.

The recharge is very, very significant, and the more siltation that occurs in the area, the greater the plugging up of the aquifer is the end result, and so therefore we're going to see continued problems with the LaSalle water in the years to come.

But a little bit about the attitude of the Company. Recently I have had some extensive contact I would say with Mr. Danczak from the Company. We had aerial photos of our land. I would have to go back through our records and get them, and the aerial photo clear discloses a fence line on the west side. The cement company has since purchased the adjacent land, and much to my dismay even though that fence was old it is now demolished. That is very typical of the arrogance of that Company. They don't care what happens around them as long as they can

get a buck out of the ground and I --

MS. EDVENSON: Dr. Jasiek, direct your comments to me and the Board.

MR. C. R. JASIEK: Yes, okay. I'm still waiting for the final call. I know that Mr. Danczak has had problems with the breakdown of the kiln and one thing or another and rain or to go over there and look at the fence line. They are not to touch anything that belongs to someone else. That's a matter of common courtesy. Isn't that right, Mr. Danczak?

MS. EDVENSON: Dr. Jasiek.

MR. C. R. JASIEK: Anyway, it has been destroyed. They're going to put up their fence. I have asked them to keep off of my property, but that's just typical of their attitude, an arrogant attitude that we will do what we want, the hell with everyone else. I get a little fed up with it. I think Mrs. Knaff has also indicated that she's had many problems. I'm not the only

one. They have stepped on everyone in the area, including the entire community and the citizens of the State of Illinois by promoting mining practices that cause extensive siltation in the Illinois River.

That's about all I have to say.
Thank you.

MS. EDVENSON: Thank you very much.
That concludes the list of individuals that we were made aware of in advance that would like to speak at the hearing. However, we will entertain the oral testimony and -- the oral statements, rather, of any additional persons that would like to speak at the hearing. So at this time if anyone would like to make additional remarks for the record for the Board, then please do so.

Okay, and please come forward then, sir. And just before you make your remarks, state your name and also please spell your last name.

MR. CIESIELSKI: All right. My name is

Thomas Ciesielski, that's
C-i-e-s-i-e-l-s-k-i. I live at 737 Seventh
Street, LaSalle. My only -- not only, but I
feel that this fine is ridiculous. It's
been beat pretty heavy so I'll go beyond
that. My concern about the Illinois Cement
Company is the dust, and I've been
complaining not to them because I know --
well, at one time at a meeting with SOLVE at
the KC building they had a couple of the men
there, and I was complaining about the dust,
and they followed me downstairs to the car.
And I just washed my car and I showed them
where the dust was on the car. I call it
talcum powder dust, you can't see it.

And the way I come onto that, I
was washing my car one day and went to
chamois it and I seen a whole bunch of
little pinpoint dust, and I didn't know what
it was. And I said to the neighbor, what
the heck is that? And he said, that's
cement dust.

And now my front of my house, for years every year I take the hose down. I live about nine blocks east from the plant, not the property line but from the plant -- or nine blocks west to Joliet Street and about nine blocks counting the side streets down, down below, about nine blocks in distance, the Seventh and Joliet Street and about a half a block east, and you can go out there and my mail box and take your finger, and it's coated real thick with dust. It's real on the storm door, dust. And that's in the middle of the house, and then going downstairs in the bottom to the end of the steps or on the step there's another mailbox, dust on there, but the bricks is more of a natural color.

Now, this dust is getting into people's lungs, going to cause silicosis. Hard telling what it's doing to the little kids playing on the sidewalks and in the grass and running and breathing it. To me

it's a heck of a health hazard, and I can't say what I want to say, but if you live towards Springfield, you're going towards Springfield, go on Route 6 'til you come to the first traffic light, turn right two blocks, left a half a block, and the middle of the block is a two-story brick house. It's the only one, and go up on the steps. Got a red carpet. It's dusty, various colors. This dust comes in under the porch. People argue with me. They say, it can't come under the porch, it can't come under the porch, but they won't come to my house and see it.

Now, you look like a very interested lady and a very intelligent lady, and if you're going that way, just stop by. And if you gentleman's going that way, walk up on my porch and take a look at the bricks on the east side of the house and on the west side and give it the finger test. Thank you.

MS. EDVENSON: Thank you very much, sir. Does anyone else in attendance like to make a statement for the record?

MR. MAAS: My name is Herb Maas. I've been a resident of LaSalle for 73 years.

MS. EDVENSON: And sir, would you spell your last name.

MR. MAAS: M-a-a-s. I'd just like to present a little article that was in the paper about the wildlife. It's creating a hazard around the neighborhood. They can't supply traps fast enough with all the animals coming into town. It used to be a wonderful place for me to walk, swim, hunt and everything else, which has taken away from me. Might as well just destroy it altogether because it's no use to the citizens anymore. Thank you. That's all I have to say.

MS. EDVENSON: Thank you, Mr. Mass. Mr. Mass' news article will be entitled Exhibit No. 7.

MR. KNAFF: I'm Joe Knaff, and I farm my wife's ground adjoining the Illinois Cement Company, and I'd like to talk on your alleged good neighbor policy. When they first approached us in the south, I don't know just what year it was, the first thing they did was bulldoze the fence line out with no word to any of us at all. They just came in, bulldozed the fence line out. Well, that was their half of the fence line so there wasn't too much we could do about it. Well, then they had the surveyors come in and they resurveyed, and Mr. Danczak was out there that day and I think his name was Sherman at that time, met with me on top of the hill back there to show us the new property line. It was 48 foot farther in at one end than the original property line and 25 foot at the other end, and they said, that's your new property line.

Well, that's when we had to go to a lawyer and spend our money to reestablish

the original fence line that's been there for probably 100 years. It was the property line regardless of what. We had to leave this right of way to the adjoining property, but that was it. Well, then they pulled back, but then they continued to mine. They came right up to the fence line, and it all slumped away.

Well, that went on for a few years and we had an attorney and stuff and we finally got that fixed, and then they went -- when they went on the west side of our property there wasn't really enough room to go mine through between the Little Vermillion and our property or my wife's property, so they quarried through there anyway. It was not our fault that there wasn't enough room there, but they should have never went through there. They did.

Now when you stand four foot from our fence line it drops 20 feet, and there's nothing we can do about it really according

to -- because they showed us where they were trying to fix it. They should have never done it in the first place, but they had meetings with us and they were trying to fix it and that's -- now they're mining on past there, over by the Little Vermillion. They're destroying the Little Vermillion.

The berms that were promised are not there. They're putting them in now, but that wasn't the idea. It was to leave the berm, not to reestablish the berm, but that's the way they operate. As far as neighborly, they don't care about the Little Vermillion. They don't care about LaSalle. They don't care about the people in LaSalle. They don't care about your house or anything as long as they can just keep going, keep mining, and that's all I want to say.

MS. EDVENSON: Thank you, sir. Would anyone else here like to make a statement on the record?

MR. ESCHBACH: Madam Hearing Officer, if I may, since it appears as though no one else -- no other members of the public wish to comment, I would just like to point out for the record on Page 16 of the proposed stipulation a concern that I have regarding wording, and I expressed this concern at a prior meeting with Mary Rose Silva, and there is wording in -- and this is Section 13 entitled Release from Liability, and it indicates that in consideration for payment of the fines and so forth and so on that the Complainant shall release, waive and discharge Respondent from any further liability or penalties from violation of the Act which were the subject matter of the complaint, which I would understand to be only the specific allegations that are spelled out in the complaint.

But then a few lines later it says, however, nothing in this stipulation and proposal for settlement shall be

construed to waive or to stop Complainant of the right to address future violations or obtain penalties with respect thereto, and my concern is that it appears that there are other past violations that are not addressed in this particular complaint. And for the sake of clarity, I think it should be made absolutely clear that the State is not waiving its right to redress any other past violations. And by having the word future in there, it kind of implies that maybe that is not the case.

I draw that to the Agency's attention and would ask them to take a careful look at that wording and ask the Board to take a careful look at that wording.

MS. EDVENSON: Thank you, Mr. Eschbach. There being no further offers to present additional oral statements, we have come to the point at which we will adjourn the hearing. And prior to

adjournment of the hearing in a contested case we are normally in the position to discuss and identify the schedule which will be in place for the closing out of the case before it -- in other words, before it is closed -- before the record is closed and the case goes to the Board for their decision.

And I understand that the Counsel for the parties may have something to say at this point in time.

MS. SILVA: Yes, Madam Chairman. The Attorney General's office --

MS. EDVENSON: I'm sorry, Madam Hearing Officer.

MS. SILVA: Oh, Madam Hearing Officer, the Attorney General's office would like the opportunity and time to consider the statements that were made here and to perhaps talk to the IEPA as well as the other parties regarding the stipulation or perhaps modifying the stipulation. At the

time that this matter was referred to the office we were not aware of the siltation problems or the blasting, open burning, as well as the NPDS violations. We will take that into consideration, and we would like to have the -- to keep the record open to have the opportunity to consider and evaluate the information that was obtained here.

MR. ESCHBACH: Madam Hearing Officer, since that -- if that request were granted I would also ask that members of the public be given additional time to submit written comments. Some of those people who were not here today, I do not know why they were not here but they may have had problems, and I would appreciate it if the Hearing Officer could extend us a period of perhaps 30 days for any other written comments to be submitted in this matter.

MS. EDVENSON: Okay. Prior to the -- prior to our hearing today I did discuss

with Counsel for the Attorney General's office and Counsel for the citizens with respect to the possibility that the Attorney General's office would be interested in submitting a motion to stay proceeding.

Such a motion could be directed either to me or to the Board, and I recommended that should such a motion be submitted it be submitted to the Board. In the interest of permitting time for persons who wish to submit additional comments to the Board with respect to this case and in the interest of providing time for the parties to present such a motion to the Board should they wish, then what I will do is at this point in time I will hold the record open for the receipt of written comments from any additional persons.

This being the 28th of June let us hold the record open until July 26th, which is a period of four weeks, and in the meantime any motion that goes to the Board I

will be under the advisement of the Board as to whether to close the record or not.

Then let us entertain additional written comments from any individual or group with respect to this case and the settlement that's been proposed until July 26th. So all persons please direct your materials to the Board by July 26th, and you are welcome to work with Mr. Eschbach for that purpose, and you may also direct materials to the Board directly.

MR. BLEIWEISS: Madam Hearing Officer, we don't have any objection to keeping the record open and taking further written testimony as you've laid out. I would just ask that if there is a further modification to the stipulation and if that in fact necessitates another hearing being held that that next hearing be limited to the subject matter of the modification rather than revisiting the ground we've covered today.

MS. EDVENSON: Your concern will be

reflected on the record of the proceeding today. I think the Board retains the discretion to hold a hearing on issues that it considers of concern, so I'm not in the position where I'll be saying anything with respect to whether or not they would limit it to the modification or not.

MR. ESCHBACH: Madam Hearing Officer, one other item of clarification with respect to the exhibits. I'm not sure what your ruling is. I would ask that they be made a part of the record of this proceeding.

MS. EDVENSON: Thank you. Because the exhibits are from the citizens and the hearing was held for the purpose of giving the citizens an opportunity to present their statement and materials, the exhibits will be admitted into the record. A list of the exhibits and a list of the witnesses and a report of the hearing will be prepared by me and will be filed with the Board within the next few days. A copy of that can be

obtained from Counsel who will be served with the hearing report.

For the record, I've identified no issues of credibility with respect to the statements that were made here today, and this concludes our hearing for today in the case of People versus Illinois Cement Company, PCB 96-147. The transcript of this proceeding will be reviewed by all the members of the Board before a decision is rendered, as will the materials that have been submitted and the materials that may be submitted after this date.

Thank you for your attendance and cooperation. Thank you for your orderliness, and the hearing is now adjourned.

(The hearing was concluded at 12:50 p.m.)

BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	PCB NO. 96-147
	)	
v.	)	
	)	
ILLINOIS CEMENT COMPANY,	)	
a joint venture,	)	
	)	
Respondent.	)	

I, Carrie L. Vaske, hereby certify that I am a Certified Shorthand Reporter of the State of Illinois; that I am the one who by order and at the direction of the Hearing Officer, June Edverson, reported in shorthand the proceedings had or required to be kept in the above-entitled case; and that the above and foregoing is a full, true and complete transcript of my said shorthand notes so taken.

Dated at Ashton, Illinois, this
8th day of July, 1996.

Carrie L. Vaske
Registered Professional Reporter
Certified Shorthand Reporter
Illinois License No. 084-003845
8991 South Prairie Road
Ashton, Illinois 61006