



1 A P P E A R A N C E S:

2 HEARING TAKEN BEFORE:

3 ILLINOIS POLLUTION CONTROL BOARD,  
4 100 West Randolph Street  
5 Suite 11-500  
6 Chicago, Illinois 60601  
7 (312) 814-4925  
8 BY: MS. AMY MURAN FELTON  
9 HEARING OFFICER

7 GARDNER, CARTON, DOUGLAS,  
8 321 North Clark Street  
9 Chicago, Illinois 60610  
10 (312) 644-3000  
11 BY: MS. ROBERTA M. SAIELLI

10 Appeared on behalf of Takasago,

11 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
12 1021 North Grand Avenue East  
13 P.O. Box 19276  
14 Springfield, Illinois 62795  
15 (217) 782-9849  
16 BY: MR. RICHARD C. WARRINGTON, JR.,

15 Appeared on behalf of the Illinois  
16 Environmental Agency.

16 ILLINOIS POLLUTION CONTROL BOARD MEMBERS:

17 Ms. Marili McFawn  
18 Mr. Anand Rao  
19 Mr. Charles King

19 ALSO PRESENT:

20 Mr. James Kohl  
21 Mr. Michael Klootwyk  
22 Mr. Frank Jones  
Mr. Michael Litton  
Mr. Michael Grubermann

23

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NO EXHIBITS WERE MARKED

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1 MS. FELTON: Good morning and welcome. My  
2 name is Amy Muran Felton and I am the hearing  
3 officer with the Illinois Pollution Control Board.  
4 I have been assigned to preside over this hearing  
5 today in the matter of petition of Takasago  
6 International Corporation U.S.A. for an adjusted  
7 standard from 35 Illinois Administrative Code  
8 302.208 and 304.105.

9 Today is Wednesday, December 22, 1999, and  
10 it is approximately 10:45 a.m. I note that there do  
11 not appear to be any members of the public here  
12 today.

13 This hearing was scheduled as a result of  
14 a public request for a hearing pursuant to Section  
15 106.713. The hearing date was scheduled and noticed  
16 pursuant to Sections 106.801 and 106.802 of the  
17 Board's procedural rules.

18                   The hearing will be governed in accordance  
19 with the Illinois Environmental Act and the Board's  
20 procedural rules. Sections 1 -- excuse me, 101.220  
21 and 101.221 of the Board's procedural rules  
22 regarding hearings will apply to these proceedings.  
23 In addition, Sections 106.805 and 106.806 regarding  
24 the conduct of hearings in adjusted standards apply

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1 to this hearing.

2                   This hearing is intended to develop a  
3 record for review of this adjusted standard  
4 proceeding by the entire seven member -- at this  
5 time, six member Illinois Pollution Control Board.

6                   I would remind you that I will not be  
7 deciding this case, rather the current six member  
8 Pollution Control Board will be deciding this case.  
9 They will review the transcript of this proceeding  
10 and the remainder of the record and render a  
11 decision in this matter.

12                   My job is to ensure that an orderly  
13 hearing and clear record develops so that the board  
14 can have all the necessary information before it  
15 when it is deciding this case. After the hearing,

16 the parties will have the opportunity to submit  
17 posthearing briefs. These, too, will be considered  
18 by the Board.

19 Any witnesses will be sworn and subject to  
20 cross-examination. The parties may ask a question  
21 of any witness. Any questions asked by the Board  
22 members and/or Board staff and hearing officer are  
23 not intended to express any preconceived notions or  
24 bias, but only to build a complete record for review

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1 by the other Board members and staff who are not  
2 present with us today.

3 Before we begin with the introduction of  
4 the parties and opening statements, I would like to  
5 introduce the other members and Board staff that are  
6 present with us today. Seated to my left is Anand  
7 Rao of the Board's technical unit, seated next to  
8 Anand Rao is Board member Marili McFawn, and next to  
9 Board member McFawn is her attorney assistant  
10 Charles King, and also here with us today is our  
11 chief hearing officer, John Knittle.

12 Does anyone have any comments that they

13 would like to present to the Board -- on behalf of  
14 the Board or the staff before we proceed?

15 MS. McFAWN: No, not really, just to say hello.  
16 I am just one of the six members so I always like to  
17 point that out. All six of us make the decisions.

18 MS. FELTON: Good. Okay. Now, we'll proceed  
19 with the introduction of the parties. Could we  
20 please start with the petitioner, if you would mind  
21 introducing yourself and who you have here with us  
22 today?

23 MS. SAIELLI: I'm Roberta Saielli, I represent  
24 Takasago International Corporation. I'm the

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1 petitioner in the case today.

2 MR. WARRINGTON: And my name is Richard  
3 Warrington, I represent the Illinois Environmental  
4 Protection Agency today.

5 MS. FELTON: Ms. Saielli, do you mind just  
6 introducing who you have with you today?

7 MS. SAIELLI: Sure.

8 MS. FELTON: Thank you.

9 MS. SAIELLI: I have with me Frank Jones, who  
10 is the plant manager at Takasago's University Park

11 plant, which is the subject of this petition. Mike  
12 Klotwyk, who's the environmental safety training  
13 manager with the plant, and then also, on behalf of  
14 Takasago, we have Jim Kohl, who is a consultant with  
15 URS Griener Woodward Clyde, you know, who is a  
16 technical consultant on the petition.

17 MS. FELTON: Okay. Are there any additional  
18 interested parties that would like to introduce  
19 themselves? At this time seeing none, I will now  
20 address any outstanding motions or prehearing  
21 motions that are currently before us.

22 To my knowledge, there is only one  
23 outstanding motion and that is the Illinois  
24 Environmental Protection Agency's motion for leave

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1 to file instanter the agency's recommendation, which  
2 was filed with the Board December 3, 1999. As there  
3 were no objections filed with the Board during the  
4 required time frame, the agency's motion to file  
5 instanter, it's recommendation is granted.

6 Are there any other additional motions,  
7 prehearing motions, that we need to address?

8 MR. WARRINGTON: No.

9 MS. FELTON: Thank you.

10 At this time now, we will proceed with  
11 opening statements on behalf of the parties,  
12 starting first with the petitioner, Ms. Saielli.

13 MS. SAIELLI: Takasago tends to stand on its  
14 petition, we don't intend to offer any testimony  
15 today, but I just wanted to give you a little bit of  
16 background on why we're here and what we're asking  
17 for.

18 Basically, there was an adjusted standard  
19 granted for Deer Creek, which is where the Consumers  
20 Illinois Water Company, which is the local waste  
21 water treatment plant, it's a privately owned  
22 treatment plant, discharges to Deer Creek. There  
23 was an adjusted standard granted to them in 1990 by  
24 the Pollution Control Board for total dissolved

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1 solids and it was granted at 2100 daily max and 1675  
2 on the average milligrams per liter of TDS.

3 At that time, the Nutrasweet company owned  
4 the plant that's currently owned and operated by  
5 Takasago, and the companies are not related

6 companies, Takasago purchased the plant in 1996, and  
7 at that time, Nutrasweet was given certain  
8 limitations on the amount of pounds of TDS that they  
9 could discharge to the CIWC plant, which then  
10 discharged to Deer Creek.

11 So neither did -- Nutrasweet or Takasago,  
12 as a direct discharger, they are indirect  
13 dischargers to CIWC, and Takasago is here today to  
14 basically change the name on the adjusted standard  
15 to make the adjusted standard applicable to their  
16 discharge, and basically the water that's being  
17 discharged is from the same processes that water was  
18 discharged at Nutrasweet.

19 When I say processes, I don't mean the  
20 manufacturing process of the plant. The water is  
21 discharged from the utility water treatment system.  
22 When the water comes into the Takasago plant from  
23 the public water supply, it's already high in total  
24 dissolved solids inasmuch as 930 and some milligrams

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1 per liter, and they need to basically soften that  
2 water so that they can use it for their utilities,

3 plant utilities, and also for water to use in the  
4 processes. We do have pretreatment facilities,  
5 which are described in the petition, and then the  
6 water from that utility processes discharge to CIWC,  
7 and so essentially, Takasago is asking for the same  
8 relief that was previously granted to Nutrasweet,  
9 and I believe the IEPA may make a statement, but  
10 that's all we have to say today, and if you have any  
11 questions, people from Takasago can answer them.  
12 That's it. Thank you.

13 MS. FELTON: Thank you very much, Ms. Saielli.  
14 Mr. Warrington?

15 MR. WARRINGTON: On behalf of the Agency, we  
16 would waive an opening statement. By way of  
17 introduction, we -- we'll rely on our  
18 recommendation. The recommendation is that Takasago  
19 should be substituted for the relief given to the  
20 Nutrasweet company several years ago by the  
21 Pollution Control Board with the same effluent  
22 concentration and mass loading limits as that  
23 previous adjusted standard. Leaving that, I'm  
24 available for questions.

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1 MS. FELTON: Okay. Thank you. Ms. Saielli,  
2 it's my understanding then you actually are not  
3 offering any testimony?

4 MS. SAIELLI: No.

5 MS. FELTON: Okay. And that's true for you?

6 MR. WARRINGTON: Right.

7 MS. FELTON: Okay. And just for the record,  
8 I'm going to ask if any interested party at this  
9 time would like to offer any testimony? If there is  
10 anyone, please speak now.

11 At this time, there does not appear to be  
12 any interested party who would like to offer any  
13 testimony on behalf of themselves with regard to  
14 this petition for adjusted standard.

15 At this time, I ask if there's anyone here  
16 that has any questions for either the petitioner or  
17 the respondent?

18 MS. McFAWN: I do.

19 MS. FELTON: Please, Ms. McFawn.

20 MS. McFAWN: I'm probably more familiar with  
21 the past records than today's records, so if it's  
22 already answered in your petition, please forgive  
23 me.

24 What I was wondering is, do you have an

1 operating permit from the Agency?

2 MS. SAIELLI: The company has a construction  
3 operating permit.

4 MS. McFAWN: For the waste water discharge?

5 MS. SAIELLI: For the discharge to CIWC for the  
6 construction of pretreatment.

7 MS. McFAWN: Okay. Do you know offhand what  
8 regulatory provision the Agency issues that under?  
9 Do you know Mr. Warrington?

10 MR. WARRINGTON: On behalf of the Illinois  
11 EPA, the Agency has authority to issue construction  
12 and operating permits under 35 Illinois  
13 Administrative Code Part 309, I believe it's  
14 Subpart A, which are permit requirements for non --  
15 national pollutant discharged elimination, or NPDS  
16 permits. The NPDS permit is granted to a direct  
17 discharger of waters of a state. There are  
18 provisions in those Pollution Control Board rules to  
19 issue permits for other -- for the construction and  
20 operating of facilities that don't require an NPDS  
21 permit.

22 In addition, the Illinois EPA administers  
23 a pretreatment program on behalf of the United  
24 States Environmental Protection Agency that

1 regulates the internal discharge to waste water  
2 treatment plants in cooperation with the waste water  
3 treatment plant. Sorry, if that was too long.

4 MS. McFAWN: This last part you talked about,  
5 the pretreatment program that you administer on  
6 behalf of the US EPA, isn't that the NPDS program or  
7 is that --

8 MR. WARRINGTON: No, no, it's a -- the  
9 pretreatment program is a separate federal program  
10 to regulate the -- what they call the indirect  
11 dischargers to the waste water treatment plant. The  
12 waste water treatment plant would be the last  
13 treatment stage before the effluent reaches the  
14 water in the state, and that is covered by the NPDS  
15 program.

16 MS. FELTON: Ms. Saielli, do you have any  
17 follow-up comments?

18 MS. SAIELLI: It's my understanding that  
19 Illinois doesn't have the authority to administer  
20 the pretreatment programs, but they have one in the  
21 regulations, but they're -- what Takasago has is a  
22 permit to own and operate a pretreatment system from

23 which they discharge to a treatment works that has  
24 an NPDS permit with the state, is that correct?

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1 MR. WARRINGTON: That's correct. We're not  
2 delegated to take over the entire pretreatment  
3 program from the United States Environmental  
4 Protection Agency. We do -- as a matter of -- I  
5 believe it's a memorandum of agreement and part of  
6 our working agreement with the United States  
7 Environmental Protection Agency to administer a  
8 program that accomplishes much of the same goals.

9 MS. McFAWN: Okay. So this is probably the  
10 permitting scheme, and I'm not that familiar with it  
11 so maybe you can just indulge me here. You issue  
12 permit -- operating permits to companies such as  
13 Takasago?

14 MR. WARRINGTON: Right.

15 MS. McFAWN: Because they're an indirect  
16 discharger?

17 MR. WARRINGTON: Right. Because their  
18 operation meets one of the categories that is  
19 required to have a pretreatment permit under the

20 federal system.

21 MS. McFAWN: Do you know what category that is?

22 MR. WARRINGTON: No, not offhand. I'm sorry.

23 MR. RAO: Can I just ask a question here, a  
24 clarification question? Does the pretreatment

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1 program, the federal program, does it apply only to  
2 publically owned treatment works or both publically  
3 and privately owned?

4 MR. WARRINGTON: The federal pretreatment  
5 program only applies to dischargers to publically  
6 owned treatment works.

7 MS. FELTON: Before we proceed, just since  
8 we're having several questions at this time, I think  
9 it might be appropriate if there's no objection from  
10 Ms. Saielli to have Mr. Warrington sworn in to  
11 provide the testimony on behalf of the Agency.

12 Ms. Saielli, you have no objection to that?

13 MS. SAIELLI: No.

14 (Witness sworn.)

15 MS. FELTON: Okay. I think the same would hold  
16 true if there's any questions directed to  
17 Ms. Saielli or unless you can also provide her

18 witnesses as well to answer those questions. Thank  
19 you.

20 MS. McFAWN: Okay. So Mr. Warrington, if I  
21 recall correctly, you just said that the  
22 pretreatment program, and this would be the  
23 pretreatment program that you issue permits on for  
24 under a memorandum of the agreement, that involves

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1 only POTWs?

2 MR. WARRINGTON: That is correct.

3 MS. McFAWN: Okay. Now, as I understand it  
4 CICW --

5 MR. WARRINGTON: CIWC.

6 MS. McFAWN: CIWC, thank you, is a --  
7 publically regulated?

8 MR. WARRINGTON: Privately owned.

9 MS. McFAWN: Privately owned, but as the Board  
10 would define it, a publically regulated treatment  
11 works. So how does that fit into what you just  
12 described as your delegated authority?

13 MR. WARRINGTON: I'm not sure. I would have to  
14 speculate a little bit, but I believe that we treat

15 publically regulated treatment works such as  
16 Consumers Illinois Water Company as a publically  
17 owned treatment works for purposes of a pretreatment  
18 program.

19 MS. McFAWN: Okay. The Board doesn't have a  
20 regulation that says that operating permits are not  
21 required for those pretreatment works or waste water  
22 sources discharging to a sewer tributary to a  
23 treatment works which will not, and then there's  
24 three qualifying paragraphs, and if you come in

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1 within one of those three categories, you do not  
2 need such an operating permit. This is that -- the  
3 Board's Rule 309.204.

4 I was wondering if Takasago fits into one  
5 of these three categories? Maybe -- do you want to  
6 see a copy of the reg?

7 MR. WARRINGTON: I think we need a copy of the  
8 reg.

9 MS. McFAWN: Okay. Here, you can even use mine  
10 which is highlighted, and you might want to show  
11 this to the people from Takasago. They might know  
12 their plant operations.

13 MR. WARRINGTON: Sure.

14 MS. FELTON: We'll go off the record for just a  
15 second.

16 (Whereupon, a discussion  
17 was had off the record.)

18 MS. FELTON: We'll go back on the record. Sir,  
19 if you're going to answer, I prefer if you were  
20 sworn in, Ms. Saielli -- or can --

21 MS. McFAWN: Can one of your gentlemen --

22 MS. FELTON: Or can one of your witnesses  
23 testify to that --

24 MS. McFAWN: Or do you feel this is maybe a

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1 legal --

2 MS. SAIELLI: That's what -- that's -- my  
3 concern is that this is really a legal question.

4 MS. FELTON: Okay.

5 MS. SAIELLI: Nutrasweet had an operating  
6 permit that was issued by the IEPA, and then  
7 Takasago applied again.

8 They are subject to a categorical standard  
9 under the US EPA's pretreatment regulations and, you

10 know, I think it's a legal interpretation of the  
11 Agency as to whether this provision applies, but,  
12 you know, we would be speculating as to why. So I  
13 don't know necessarily if I can answer the question  
14 for the Agency.

15 MS. McFAWN: So when you say that it is subject  
16 to one of the categorical standards under the US EPA  
17 regs, those would be the regulations that have to do  
18 with POTWs?

19 MS. SAIELLI: No. Those would be regulations  
20 for indirect discharges under the Federal Clean  
21 Water Act Regulation. They're actually part of the  
22 organic chemicals, plastic, synthetic fibers source  
23 category, although none of this really has anything  
24 to do with TDS, just so you're aware. In terms of

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1 the -- the fact that they're subject to this  
2 categorical standard has nothing to do with the TDS.  
3 That's the subject of this adjusted standard.

4 MS. McFAWN: Oh, that's an interesting point.  
5 Okay.

6 MR. KING: Are there constituents of their TDS  
7 admissions that are characteristic, i.e., that could

8 be traced back to this plant from beyond the  
9 treatment works?

10 MS. SAIELLI: I don't understand your question  
11 because essentially total dissolved solids are  
12 basically -- it's my understanding they're types of  
13 salts, and I'm not testifying now, but with  
14 incoming -- this is all in our petition, the  
15 incoming --

16 MS. McFAWN: If you could, would you testify to  
17 this about the plant and --

18 MS. SAIELLI: Can you explain where the TDS is  
19 coming from? You're going to need to be sworn in.

20 MS. McFAWN: You're Mr. Jones, right?

21 MR. JONES: I'm Mr. Jones.

22 MS. FELTON: I'm just going to clarify to the  
23 extent that either Ms. Saielli or Mr. Warrington  
24 are giving legal arguments, then there's no need to

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1 have you sworn, but if you cross the line into a  
2 factual sort of situation, I would ask that you were  
3 sworn, so, yeah, that's fine. We can proceed with  
4 your witness.

5 MS. SAIELLI: Okay. We're going to have Mike  
6 Klotwyk.  
7 MS. McFAWN: Okay.  
8 MS. FELTON: Roberta, if you want to have him  
9 come up and sit closer to you, that would be fine.  
10 MS. SAIELLI: Yeah, do you want to come up,  
11 Mike?  
12 MR. KLOOTWYK: Okay.  
13 MS. FELTON: Yeah, if you just want to raise  
14 your hand to be sworn.  
15 (Witness sworn.)  
16 MS. FELTON: You can sit down next to  
17 Ms. Saielli if you want, sir, that's fine.  
18 MS. SAIELLI: Ask your question again.  
19 MR. KING: Well, I guess another way to say it  
20 would be what are the constituents of the TDS coming  
21 out of the plant, if you know?  
22 MR. KLOOTWYK: What are the breakdowns of the  
23 TDS that are coming --  
24 MR. KING: Yeah, just generally.

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1 MR. KLOOTWYK: Generally speaking, and we  
2 talked about this this morning, primarily it's

3 coming off the softener systems, and so when you  
4 regenerate a softener much like in your home, you  
5 have a lot of salts that come out.

6 In Takasago's case, the salts coming in --  
7 or the dissolved solids I should bring -- the  
8 dissolved solids coming into the plant are  
9 relatively high. We had the drinking water, if you  
10 would, potable water tested both by ourselves,  
11 Takasago, as well as CIWC from their well. Okay?  
12 It's a raw-water well essentially. I don't know  
13 what's the depth of that particular well, but the  
14 results indicated that their total dissolved solids  
15 that they're pulling up from the aqua filter below  
16 is running over 900, and we've seen a peak as high  
17 as 1,000, which at that point exceeded the State's  
18 standard for TDS discharge of 1,000. So they were  
19 delivering to us a quality of water that was very  
20 high in TDS. I can't break those compounds down  
21 because CIWC regulates that well and tests that  
22 well. So essentially we're using that water --

23 MR. KING: So essentially if they were  
24 discharging their well water straight out, that

1 would potentially be in violation?

2 MR. KLOOTWYK: Pretty close.

3 MS. SAIELLI: They currently are operating  
4 under 2100 milligrams per liter so --

5 MR. KING: Right.

6 MS. McFAWN: The waste water treatment, he's  
7 talking about the fresh water.

8 MR. KING: Yeah, CIWC, but if CIWC was taking  
9 water so that the water -- from what I hear you  
10 saying, though, the water they were pulling out of  
11 the ground is so high in TDS to start with --

12 MR. KLOOTWYK: The potable water, yes.

13 MR. KING: -- that if that just went straight  
14 out with no treatment that it could potentially,  
15 when it peaks, be violating the standard.

16 MR. KLOOTWYK: Yes, yes. Two years ago when we  
17 first looked at this then, and then when Ukano  
18 Foxworth, an EPA permit individual, he asked a  
19 question about the potable water, and I expressed  
20 that the TDS was so high that we could violate by  
21 taking a garden hose, if you would, from the potable  
22 water source and put it right to the discharge and  
23 be in violation of the State's standards for TDS on  
24 a straight pass through.

1 MR. KING: Oh, that's interesting. So there's  
2 not -- I guess what I was wondering is if there was  
3 some constituent of the effluent from the plant that  
4 would differentiate it from, say, municipal waste  
5 water from the city, which I understand also goes  
6 through this plant, through the CIWC treatment  
7 works?

8 MR. KLOOTWYK: Restate that if you would?

9 MR. RAO: I think, basically, what Mr. King is  
10 asking you is if you sampled the effluent discharge  
11 coming out of the treatment plant of CIWC; is there  
12 something that can tell you that, in a part, the  
13 TDS is coming from either plant through the CIWC  
14 plant, you know, like if there's a certain  
15 characteristic of the TDS which can say well, you  
16 know, this TDS is -- you know, is there anyway to  
17 distinguish between the chemical breakdown in the  
18 TDS to say whether it was coming from the plant or  
19 from the other dischargers?

20 MR. KLOOTWYK: That's a difficult answer -- or  
21 question to answer because I can say this. Before  
22 we brought chemicals on the site, okay, we didn't  
23 need to regulate it for water. All right. We were  
24 doing the same things that we're doing today, but

1 now because we brought a constituent on site that's  
2 under the Federal Code of Regulations 414, we now  
3 must look at pretreatment in a criteria under the  
4 federal codes, okay, which now forces us to move  
5 towards a pretreatment operating permit. All right.

6 So we went through a window and really did  
7 nothing different at the plant other than the fact  
8 that, yes, we do have this one constituent on site.  
9 If we had a release of this constituent it could be  
10 tied directly back to the facility, and that's what  
11 414 is all about, to regulate those hazardous  
12 pollutants. The industrial park, to my knowledge, I  
13 don't believe there's anybody else using that  
14 particular compound in reference to 414.

15 MS. SAIELLI: But you're not talking about the  
16 TDS. What you're asking specifically is when the  
17 water comes out of Takasago's plant to the CIWC is  
18 there anything about TDS and the discharge that  
19 would differentiate it from the TDS that's already  
20 in our water coming in from somebody else's plant?

21 MR. KING: That's correct.

22 MR. KLOOTWYK: And I don't believe we could do  
23 that.

24 MR. KING: Okay. I think you answered my

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1 query.

2 MS. FELTON: Mr. Warrington, did you have  
3 anything you would like to provide in response?

4 MR. WARRINGTON: All I can do is concur with  
5 that testimony. The way I understand the federal  
6 test procedure, 40 CFR 136, the test for total  
7 dissolved solids involves a filtering sample,  
8 weighing it, evaporating water, and weighing it  
9 again so you wind up with a residue that is the --  
10 it's a mixture of salts, primarily sodium chloride,  
11 which is, I believe, indistinguishable for -- from  
12 the result we get from testing the raw well water or  
13 the discharge from any domestic water softener.

14 MR. KING: If I could clarify one thing that  
15 you had said a moment ago, so the presence of the  
16 compound that brought you within the federal  
17 regulatory scheme is not tied to the processes that  
18 are producing your waste water, it's just the fact  
19 that it's there in the plant?

20 MR. WARRINGTON: That's correct.

21 MR. KING: Okay. Thank you.

22 MS. McFAWN: So the process, the manufacturing  
23 process, doesn't contribute to the TDS?

24 MS. FELTON: Mr. Klootwyk, could you answer yes

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1 or no?

2 MR. KLOOTWYK: The manufacturing -- we need to  
3 define manufacturing. There's manufacturing of  
4 processes of potable water that you can use for  
5 utilities. That's defined here. Then there's  
6 manufacturing of aroma chemicals. Okay.  
7 Specifically does the aroma chemical manufacturer  
8 contribute  
9 to --

10 MS. McFAWN: The TDS?

11 MR. KLOOTWYK: No.

12 MS. McFAWN: Okay. Thank you, and thank you  
13 for making that distinction.

14 Do you and do any of the people that have  
15 testified or does anyone else know, I am not  
16 familiar with CIWC, what other discharges does it

17 accept? Does it service all of University Park?

18 MS. SAIELLI: That's on the petition. They do;  
19 the residences and approximately 60 industrial  
20 dischargers.

21 MS. FELTON: Sir, just one second, sir. I just  
22 want to note for the record that there do appear to  
23 be two individuals here, perhaps from the community  
24 and, sir, if you would like to respond, I'd ask you

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1 to stand up and just please be sworn in.

2 MS. McFAWN: Your name is?

3 MR. GRUBERMANN: My name is Mike Grubermann.

4 I'm the village manager for the village of  
5 University Park.

6 MS. FELTON: Thank you, and we'll ask the court  
7 reporter to swear you in.

8 (Witness sworn.)

9 MS. FELTON: Thank you, sir. If you'd like to  
10 respond, thank you.

11 MR. GRUBERMANN: Yeah. They service the  
12 entirety of the village of University Park in  
13 addition to certain unincorporated areas, which are  
14 surrounded by but not incorporated in the village,

15 and also by contract service, the entire sewer  
16 system from the village of Monee, which is  
17 immediately south of our industrial park, and an  
18 earlier question was in relation to -- somebody had  
19 asked in relation to the depth of the wells, I  
20 believe the majority of the wells here are about 490  
21 feet at the water level and there is a high level of  
22 dissolved solids, a lot of iron, limestone, so there  
23 are -- there's a lot in there that needs to be --  
24 that needs to be worked out if you're doing anything

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1 with the water. Most of us soften our own.

2 MS. McFAWN: We've learned then that there are  
3 other manufacturing concerns that discharge to CIWC.  
4 Would they -- any of them suffer the problem that  
5 the raw water coming in contains such high solids  
6 that they just pass it along to CIWC?

7 MR. GRUBERMANN: I would say so. Originally --  
8 I mean, this is from Nutrasweet. Nutrasweet tested  
9 their water and they actually discontinued  
10 purchasing water -- water bottles. They  
11 discontinued purchasing water that way. They

12 discontinued using drinking water directly to  
13 faucets and ran their processed work to their  
14 drinking fountains simply because of the fact that  
15 they cleaned it up before it got used.

16 MS. McFAWN: So in layman's terms, they were  
17 then using their water -- the water which had been  
18 softened inside Nutrasweet?

19 MR. GRUBERMANN: Right. They were doing  
20 reverse osmosis so they were using that as drinking  
21 water inside of Nutrasweet because it was of better  
22 quality than they could even buy from Hinckley &  
23 Schmitt. For example, that way the crest around  
24 your hot water spout, it's no different than what we

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1 are getting here.

2 MS. McFAWN: So if the manufacturing concerns  
3 that discharge to CIWC accept the raw water from the  
4 water supplier -- who is the water supplier, is it  
5 CIWC?

6 MR. GRUBERMANN: Yes. They're the supplier.

7 MS. McFAWN: Okay. So if they accept the raw  
8 water there, they, too, probably have to soften or  
9 just use it --

10 MR. GRUBERMANN: Some do, some don't. We've  
11 got a lot of -- probably 50 or 60 percent of the  
12 homes here soften and that's all discharged. When  
13 the softener regenerates, that's all discharged to  
14 the system, but, you know, the industrial plants, a  
15 lot of them don't bother treating it because they  
16 might have, you know, ten, 15 employees and not  
17 actually do anything -- anything that has to do with  
18 water other than drinking it and flushing a toilet.

19 MS. McFAWN: Okay. Good point. Thank you.

20 MR. GRUBERMANN: Most of them import water to  
21 run their coffee for dissolved solids.

22 MS. FELTON: Thank you. Are there any further  
23 questions for any of the witnesses or any of the  
24 other parties?

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1 MS. McFAWN: I kind of -- I wonder, do we have  
2 a copy of your operating permit?

3 MS. SAIELLI: I don't believe we attached it to  
4 the petition.

5 MS. McFAWN: Could we have a copy submitted to  
6 the Board and just -- the Agency, of course, would

7 have a copy of that.

8 MR. WARRINGTON: We didn't bring one with us.

9 I'm sorry.

10 MS. McFAWN: That's okay.

11 MS. SAIELLI: I don't have a copy to give you.

12 We'll send you one.

13 MS. McFAWN: Okay. Fine. That would be fine.

14 Do you have a copy with you, though?

15 MS. SAIELLI: Yeah.

16 MS. McFAWN: Oh, could we take a moment to look

17 at it, please?

18 MS. SAIELLI: This is the original.

19 MS. McFAWN: We won't mark it up.

20 MS. McFAWN: All right. Could we just take a

21 few minutes off the record then?

22 MS. FELTON: Actually, before we go off the

23 record, I just want to confirm that the petitioner

24 will provide a copy to the Board of the operating

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1 permit?

2 MS. SAIELLI: Sure.

3 MS. FELTON: Okay. And that -- as long as -- I

4 will just direct them to do that by the time that

5 the record closes in this record, which we'll  
6 clarify that at the end. That will be a few weeks  
7 after the transcript is available. Thanks. We'll  
8 go off the record for a second.

9 (Whereupon, a discussion  
10 was had off the record.)

11 MS. FELTON: Back on the record.

12 MS. McFAWN: Thank you for letting me take a  
13 look at your permit and, as we agreed, we'll get  
14 copies at the conclusion of this hearing.

15 I just have a couple questions about how  
16 the permit works especially in conjunction with the  
17 adjusted standard which was granted to Nutrasweet  
18 and CIWC.

19 According to that permit, after reviewing  
20 it, Special Condition No. 6 requires that you not  
21 exceed 1,000 milligrams per liter on a daily maximum  
22 limit of TDS and that you are to test three times a  
23 week -- a daily sample three days a week for that,  
24 is that right?

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1 MS. SAIELLI: It's subject -- it was subject to

2 the provisional variance -- upon expiration of the  
3 provisional variance.

4 MS. McFAWN: Okay.

5 MS. SAIELLI: They were supposed to do that.

6 MS. McFAWN: Right. So I assume that that's  
7 now how you're operating because the provisional has  
8 expired?

9 MS. SAIELLI: Correct. We've asked that the  
10 adjusted standard be made to apply to the  
11 expiration.

12 MS. McFAWN: Okay. Now, if my familiarity with  
13 the past adjusted standard tells me that these were  
14 standard -- these were the conditions that  
15 Nutrasweet also agreed to?

16 MS. SAIELLI: They did not agree to 1,000  
17 milligrams per liter discharge. They agreed to  
18 count not concentration limits, but pounds per day,  
19 mass limit.

20 MS. McFAWN: Oh, okay. Well, thank you. I  
21 thought this was what was agreed to. How come the  
22 change?

23 MS. SAIELLI: I believe it might have been an  
24 error on part of the IEPA, but I'm not sure.

1 MS. McFAWN: An error now or as was now?

2 MS. SAIELLI: Now.

3 MS. McFAWN: Now? So you want to keep the mass  
4 limit?

5 MR. WARRINGTON: They, I believe, do want to  
6 keep the mass limit.

7 MS. SAIELLI: We requested the mass limit and  
8 IEPA is agreeing.

9 MS. McFAWN: Okay. I see. All right. So  
10 these types of conditions were also in the operating  
11 permit that Nutrasweet held?

12 MS. SAIELLI: The mass limit.

13 MS. McFAWN: The mass limits, and that was  
14 because of the adjusted standard?

15 MS. SAIELLI: Yes.

16 MS. McFAWN: So is that the only thing  
17 obligating Nutrasweet or Takasago to do this or is  
18 there a contractual obligation between CIWC and  
19 Nutrasweet/Takasago?

20 MS. SAIELLI: I don't believe so.

21 MS. McFAWN: No?

22 MR. KLOOTWYK: No. We have no contractual  
23 agreement between our company and CIWC.

24 MS. McFAWN: Concerning TDS?

1 MR. KLOOTWYK: That's correct.

2 MS. McFAWN: Do you have a contractual  
3 agreement otherwise?

4 MR. KLOOTWYK: CIWC just bills us according to  
5 the -- I believe it's the Illinois Commerce  
6 Commission that sets the --

7 MS. McFAWN: The rates?

8 MR. KLOOTWYK: -- rates and loads.

9 MS. McFAWN: Okay.

10 MR. KLOOTWYK: And has that forwarded to us.

11 MS. McFAWN: Okay. All right. A little  
12 earlier, I asked you to look at Section 309.204,  
13 which is the operating permits for existing sources  
14 and that it says that operating permits are not  
15 required unless you discharge -- one of those  
16 qualifying paragraphs was No. 2; unless you  
17 discharge 15 percent or more of the total hydraulic  
18 flow received by the treatment works. Would  
19 Takasago contribute more than 15 percent of the  
20 total hydraulic flow, do you know?

21 MR. KLOOTWYK: Their total flow -- their total  
22 flow out of the plant?

23 MS. McFAWN: Received by the plant.

24 MR. KLOOTWYK: Received? I don't know what

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1 their total flow received is. We only know the  
2 information discharging out of the plant.

3 MS. McFAWN: Okay. All right. Mr. Warrington,  
4 can you tell me -- I understand that Takasago has a  
5 pretreatment permit because -- subject to the  
6 categorical standards.

7 MR. WARRINGTON: Right. They fall into that  
8 first exclusion from the exemption --

9 MS. McFAWN: Correct. Does the Agency -- can  
10 you tell me has the Agency issued the operating  
11 permits subject to Paragraph 2 or 3, one being the  
12 15 percent or more of the total hydraulic flow  
13 received and, one being 15 percent or more of the  
14 total biological loading received?

15 MR. WARRINGTON: Not to my knowledge. From  
16 reviewing that particular section of the  
17 regulations, it appears that they are a source  
18 that's regulated under Section 307 of the Clean  
19 Water Act, which is, I believe, is the pretreatment  
20 program or the categorical standards. We've heard  
21 testimony today that they are regulated under 40

22 CFR, I believe, it's Part 414, is that correct?

23 MS. McFAWN: Okay. But my question was more  
24 general. Have -- does the Agency -- you might not

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1 know the answer, but what I'm curious about is the  
2 Agency issuing permits to a waste water source  
3 because it's discharge is more than 15 percent of  
4 the -- 15 percent or more of the total hydraulic  
5 flow received by a treatment works? Do you know of  
6 any incidence of that?

7 MR. WARRINGTON: I recall that situation, but I  
8 can't recall who it was or when it was. There are  
9 cases where you have your relatively small  
10 municipality with a publically-owned treatment works  
11 and one or two large industrial contributors to that  
12 system.

13 MS. McFAWN: But what we would need is a --

14 MR. WARRINGTON: A particular name that, you  
15 know, would be that situation, I can't recall.

16 MS. McFAWN: What we would really need is that  
17 situation where you have a publically regulated  
18 treatment works as opposed to a POTW.

19 MR. WARRINGTON: Oh, okay. I couldn't  
20 distinguish between the two in my memory. I don't  
21 know.

22 MS. McFAWN: Okay. Do you know -- do you ever  
23 issue permits to waste water sources?

24 MR. WARRINGTON: Well, yes.

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1 MS. McFAWN: That are indirect dischargers?

2 MR. WARRINGTON: Correct. If they fall under a  
3 categorical standard or if they're a large, either  
4 organic contributor, or a hydraulic contributor,  
5 then they are obligated to receive, upon  
6 implication, an indirect discharger permit or a  
7 construction and operating permit.

8 One example, I think, has come to mind is  
9 that I believe it's a town that has a dairy. The  
10 wash waters and waste waters from the dairy are  
11 fairly high in organic loading such that we require  
12 them to pretreat that waste water before it is sent  
13 into the sewer through the waste water treatment  
14 plant.

15 MS. McFAWN: Have you ever issued such a permit  
16 to a company that doesn't -- or I mean to a

17 discharger, an indirect discharger, that doesn't  
18 pretreat?

19 MR. WARRINGTON: It is possible. Under the  
20 federal pretreatment program, there are options  
21 where the receiving treatment works or the control  
22 authority can make contractual or binding  
23 obligations with an indirect discharger that  
24 otherwise would have to limit the indirect

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1 dischargers to a certain numerical or percentage  
2 amount that the -- that nonetheless the receiving  
3 waste water treatment plant can still accept them.  
4 Usually, that means that the receiving waste water  
5 treatment plant can more economically treat the  
6 increased loading than the indirect discharger could  
7 and usually you have a contract with financial  
8 compensation to arrange for that.

9 MS. McFAWN: Okay. But then in that instance,  
10 would the Agency issue an operating permit to the --

11 MR. WARRINGTON: They would still meet the  
12 trigger of contributing no more than X amount of  
13 hydraulic or organic loading. They still require a

14 construction permit or an operating permit if for no  
15 other reason than they have a sewer constructed from  
16 the indirect discharger to the treatment plant.

17 MS. McFAWN: Okay. So they would have to  
18 trigger one of these requirements in 309.204?

19 MR. KLOOTWYK: That's correct.

20 MS. McFAWN: A question for Takasago, you  
21 mentioned that you purchased the Nutrasweet facility  
22 in 1996, was that correct?

23 MS. SAIELLI: Yes.

24 MS. McFAWN: And I was wondering what happened

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1 between 1996 and this middle of this AS?

2 MS. SAIELLI: Mr. Klotwyk?

3 MR. KLOOTWYK: What happened between 1996  
4 and --

5 MS. McFAWN: This middle of your adjusted  
6 standard petition, when Takasago has owned it for  
7 three years or about --

8 MR. KLOOTWYK: Yeah. In August -- roughly  
9 around August 1st of 1996, Nutrasweet literally  
10 handed over the plant keys, if you would, to  
11 Takasago. Takasago then spent roughly two years

12 decommissioning, if you would, looking at  
13 engineering, new facilities on the site. In  
14 roughly, I believe it was mid-1998, they filed with  
15 the air division in operating a construction permit  
16 to commence construction at which time the plant  
17 was -- 1997, okay. In 1997, they sought an  
18 operating and construction permit in construction.  
19 Upon receiving that permit, approval for operating  
20 and constructing, they began building in  
21 mid-December. Well, I should say September of 1997.  
22 It was under construction until -- as of late --  
23 actually, the actual first production facility was  
24 brought on-line July of this year. Yeah, July of

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1 1999.

2 MS. McFAWN: So between the purchase in July of  
3 1999, you weren't producing?

4 MR. KLOOTWYK: There was a limited amount of  
5 production water being generated and I'll clarify.  
6 The building was still needing, for sanitary  
7 purposes, restrooms. Water was still brought into  
8 the plant for sanitary purposes. During the winter,

9 they had to fire up, if you would, a boiler -- a big  
10 boiler unit because that was the only way to heat  
11 the building, the office area. Okay?

12 So they did that for two winters where  
13 they brought boilers up, and then brought them down,  
14 but every time they brought that boiler up they had  
15 to bring the pretreatment water -- pretreatment  
16 processes up because you cannot feed that kind of  
17 water into a boiler. It's very dangerous. It will  
18 clog the tubes and you'll have a failure and cause a  
19 significant explosion. So during the winter months,  
20 they did that.

21 Outside of that, they did bring boilers  
22 down and still ran raw water into the plant for  
23 sanitary purposes, softened accordingly and for  
24 drinking water purposes, they did send it through

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1 what they call reverse osmosis. We won't let the  
2 people drink the water, raw water.

3 MS. McFAWN: So you weren't producing a  
4 product, you were just maintaining the offices?

5 MR. KLOOTWYK: We were just maintaining the  
6 facilities.

7 MS. McFAWN: At that time, did you have an  
8 operating permit from the Illinois EPA, a water  
9 operating permit, or did that come because of the  
10 new processes?

11 MR. KLOOTWYK: That became because of the new  
12 processes.

13 MS. McFAWN: Okay. So, for example, when  
14 Nutrasweet got the AS, they didn't get an operating  
15 permit from the Illinois EPA?

16 MR. KLOOTWYK: I believe they had a  
17 pretreatment permit in hand.

18 MS. McFAWN: Oh, they did?

19 MR. KLOOTWYK: Yes.

20 MS. McFAWN: Even though they weren't subject  
21 to Part 414?

22 MR. KLOOTWYK: Nutrasweet was subject to 414.

23 MS. McFAWN: Oh, okay. I misunderstood. I  
24 thought maybe something new that was added by

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1 Takasago triggered that.

2 MR. KLOOTWYK: No.

3 MS. McFAWN: Thank you. So the adjusted

4 standard, if memory serves me correctly, that  
5 Nutrasweet got had them actually doing stream  
6 monitoring as well for TDS, is that right? No?

7 MR. KLOOTWYK: Nutrasweet -- being a former  
8 Nutrasweet employee, they did monitor for TDS.  
9 Their monitoring conditions and our monitoring  
10 conditions are virtually identical.

11 MS. McFAWN: Okay.

12 MS. SAIELLI: The actual opinion is Exhibit B  
13 to the petition.

14 MS. McFAWN: Thank you.

15 MS. FELTON: Ms. Saielli, could you confirm  
16 under which zoning classification the petitioner  
17 cited?

18 MS. SAIELLI: It's zoned industrial.

19 MS. FELTON: Thank you. We're going to take a  
20 brief five-minute break, if that's okay. We'll  
21 reconvene -- it's 11:40. We'll reconvene at 11:45.  
22 Thanks.

23

24

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1 (Whereupon, after a short

2 break was had, the  
3 following proceedings  
4 were held accordingly.)

5 MS. McFAWN: If I could get a copy of  
6 Nutrasweet's operating permit and Takasago's and  
7 have those submitted to the record, and  
8 Mr. Warrington, if you could provide us a copy with  
9 the permit for CIWC.

10 MR. WARRINGTON: The NPDS permit.

11 MS. McFAWN: Yeah., is it already in the  
12 exhibit?

13 MS. SAIELLI: I think they just got reissued  
14 the new one. The old one was --

15 MS. McFAWN: Depending on it's length, what  
16 I'm most interested in, of course, I can't imagine  
17 that's it's very lengthy, but I want to see how you  
18 wrote the conditions for their AS is what I'd like  
19 to see. You can submit that by mail, you know,  
20 through the clerk's office with a copy to the  
21 hearing officer, that would be helpful.

22 MS. SAIELLI: Just an original and one or --

23 MS. FELTON: Actually, original and nine and  
24 then one to me. Thanks.

1 MR. WARRINGTON: Got it.

2 MS. FELTON: You can file a motion to waive  
3 but --

4 MS. McFAWN: You don't have to do that today.  
5 I meant this is more, you know, after the close of  
6 the hearing, you can submit these.

7 MR. WARRINGTON: How many copies would you  
8 like?

9 MS. FELTON: Original and nine.

10 MR. WARRINGTON: Original and nine?

11 MS. McFAWN: Right.

12 MS. FELTON: So basically I just confirmed that  
13 copies of Nutrasweet's operating permit, Takasago's  
14 operating permit, and CIWC's current permit will be  
15 provided to the Board pursuant to our procedural  
16 rules by the time that the record closes in this  
17 matter, which we will establish in just a few  
18 minutes.

19 Are there any other questions?

20 Ms. McFAWN: I don't have any questions, but I  
21 do want to thank you for listening to my questions  
22 and indulging me. I'm having a little trouble  
23 getting the history on this and getting it current  
24 so I certainly appreciate you supplying the

1 information.

2 MS. FELTON: Are there any other questions on  
3 behalf of the Board or staff? All right. Are there  
4 any other questions on behalf of any interested  
5 parties?

6 Seeing as there do not appear to be any  
7 with us at this time, we will proceed with closing  
8 statements if the parties would like to make them.  
9 If they would like to waive them, that's fine.

10 MS. SAIELLI: We'll waive.

11 MS. FELTON: Okay.

12 MR. WARRINGTON: The Agency will waive a  
13 closing statement.

14 MS. FELTON: Okay. Are there any additional  
15 motions that the parties would like to present to  
16 the Board for its deliberation on behalf of the  
17 petitioner or the respondent?

18 MR. WARRINGTON: No.

19 MS. FELTON: Okay. Let's just go off the  
20 record just for a second.

21 (Whereupon, a discussion  
22 was had off the record.)

23 MS. FELTON: We'll go back on the record.

24

Just to clarify, the parties have

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1 expressed and represented that they will be waiving  
2 the post-hearing brief schedule. Consequently, I  
3 will set forth sort of the time frame for closing  
4 the record in this matter.

5 It appears that the transcript in this  
6 matter will be available on or about Monday, January  
7 3rd, 2000. Based on that, all post-hearing comments  
8 must be filed with the Board two weeks after the  
9 transcript is available, which I deem to be January  
10 17th, 2000.

11 However, if there are public comments, I  
12 am going to set forth a briefing schedule for the  
13 parties to respond to those comments in the event  
14 that they are filed. If no comments are received by  
15 January 17th, 2000, the record will close on that  
16 date, and that's the time at which we would request  
17 all of the permits be filed. However, if any public  
18 comments are filed, the parties will adhere to the  
19 following briefing schedule: Petitioner's would be  
20 due on January 31st, 2000; and respondent's brief

21 would be due on February 14th, and if any comments  
22 are filed and there is this briefing schedule, if we  
23 proceed with the briefing schedule, the record will  
24 close on February 14th, 2000, upon the date that the

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1 respondent's brief is due.

2 Just to confirm and clarify, the mailbox  
3 book rule as set forth at 35 Illinois Code 101.102 D  
4 and 101 -- strike that.

5 101.144 C will apply to all posthearing  
6 filings. All post-hearing comments must be filed in  
7 accordance with Section 106.807 of the Board's  
8 procedural rules. Mr. Warrington?

9 MR. WARRINGTON: Will the transcript be posted  
10 on the Board's internet site?

11 MS. FELTON: It is my understanding that the  
12 transcript will be posted on the Board's website and  
13 now that we have somebody handling that full-time,  
14 it should be fairly immediately available on their  
15 website.

16 MR. WARRINGTON: Thank you.

17 MS. FELTON: Do you have our website address?

18 MR. WARRINGTON: We do.

19 MS. FELTON: Great. Okay. Are there any other  
20 matters which need to be addressed at this time?  
21 Seeing that there are no additional matters, this  
22 hearing is adjourned and we thank you for your  
23 attendance and participation in this matter and  
24 happy holidays. Thank you.

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1 MR. WARRINGTON: Thank you.  
2 (Whereupon, no further  
3 proceedings were had in  
4 the above-entitled  
5 cause.)  
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1 STATE OF ILLINOIS )  
2 ) SS.  
3 COUNTY OF C O O K )

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5

6 I, TERRY A. STRONER, CSR, do  
7 hereby state that I am a court reporter doing  
8 business in the City of Chicago, County of Cook, and  
9 State of Illinois; that I reported by means of  
10 machine shorthand the proceedings held in the  
11 foregoing cause, and that the foregoing is a true  
12 and correct transcript of my shorthand notes so  
13 taken as aforesaid.

14

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17

Terry A. Stroner, CSR

18

Notary Public, Cook County,

Illinois

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